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# Executive Orders

## EXECUTIVE ORDER JBE 18-11

Bond Allocation—Louisiana Community Development Authority

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter “the Act”), as amended (hereafter “the Code”), restricts the total principal amount of certain private activity Bonds that exclude interest from gross income for federal income tax purposes under Section 103 of the Code;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act No. 51 of 1986”) authorizes the Governor to allocate the volume limit applicable to the Bonds (hereafter “the ceiling”) among the State and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana;

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986, Executive Order No. JBE 2016-35 was issued to establish: (a) the manner in which the ceiling shall be determined, (b) the method to be used in allocating the ceiling, (c) the application procedure for obtaining an allocation of Bonds subject to such ceiling, and (d) a system of record keeping for such allocations; and

WHEREAS, the Louisiana Community Development Authority has applied for an allocation of the 2018 Ceiling to be used in connection with the financing by Better Waterworks, Inc., for the cost of acquiring, constructing, and installing improvements to existing facilities used to provide drinking water service.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2018 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$2,500,000	Louisiana Community Development Authority	Better Waterworks, Inc.

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the “Application for Allocation of a Portion of the State of Louisiana’s Private Activity Volume Cap” submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2018, provided that such bonds are delivered to the initial purchasers thereof on or before July 18, 2018.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 19th day of April, 2018.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1805#004

## EXECUTIVE ORDER JBE 18-12

Suspension of Early Voting

WHEREAS, La. R.S. 18:401.1 provides a procedure whereby the emergency suspension or delay and rescheduling of qualifying, early voting and elections can occur when there is a possibility of an emergency or common disaster occurring before or during a regularly scheduled or special election “in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to qualify or exercise their right to vote, to minimize to whatever degree possible a person’s exposure to danger during declared states of emergency, and to protect the integrity of the electoral process...”

WHEREAS, early voting for the April 28, 2018 proposition elections is scheduled to be conducted on April 14, 2018 through April 21, 2018 from 8:30 a.m. until 6:00 p.m. in the Parish of East Baton Rouge; and

WHEREAS, on April 19, 2018, pursuant to the provisions of La. R.S. 18:401.1(B), the Secretary of State certified and recommended that due to a settlement event at the River Center Branch Library that is currently under construction on North Boulevard, effective at 4:45 p.m. on Wednesday, April 18, 2018, early voting be suspended on April 19, 2018 starting at 8:30 a.m. at City Hall, 222 St. Louis Street, #201, Baton Rouge, LA 70802-5860 and resume early voting at 12:00 p.m. at City Hall, 222 St. Louis Street, #201, Baton Rouge, LA 70802-5860 or until Mayor Sharon Weston Broome lifts the closure order for City Hall; and continue early voting on April 19, 2018 through April 21, 2018 from 8:30 a.m. until 6:00 p.m. in East Baton Rouge Parish at the Motor Vehicle Building, 2250 Main Street,

Baker, LA 70714-2529, the Fire Station Building; 11010 Coursey Boulevard, Baton Rouge, LA 70821-9006; and the Louisiana State Archives Building, 3851 Essen Lane, Baton Rouge, LA 70809.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Under the authority of La. R.S. 18:401.1(8) and based on the April 19, 2018 certification and recommendation from the Secretary of State that a state of emergency exists, early voting be suspended on April 19, 2018 starting at 8:30 a.m. at City Hall, 222 St. Louis Street, #201, Baton Rouge, LA 70802-5860 is suspended and resumes early voting at 12:00 p.m. at City Hall, 222 St. Louis Street, #201, Baton Rouge, LA 70802-5860 or until Mayor Sharon Weston Broome lifts the closure order for City Hall; and continue early voting on April 19, 2018 through April 21, 2018 from 8:30 a.m. until 6:00 p.m. in East Baton Rouge Parish at the Motor Vehicle Building,

2250 Main Street, Baker, LA 70714-2529, the Fire Station Building; 11010 Coursey Boulevard, Baton Rouge, LA 70821-9006; and the Louisiana State Archives Building, 3851 Essen Lane, Baton Rouge, LA 70809.

SECTION 2: This order is effective upon signature and shall remain in effect unless amended, modified, terminated, or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 19th day of April, 2018.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1805#003

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Advisory Commission on Pesticides

#### Certification of Commercial Applicators (LAC 7:XXIII.711)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the commissioner of agriculture and forestry declares an emergency to exist and adopts by emergency process the attached regulation requiring proficiency testing for all commercial applicators in 2017. R.S. 3:3203(A) provides that the “commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Chapter, including but not limited to rules and regulations governing the registration, distribution, sale, offering for sale, and application of pesticides...” Additionally, R.S. 3:3242 provides that the “commissioner by rule shall provide for the issuance of annual certification cards.” In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing is necessary to protect the health and safety of the public. This Emergency Rule was initially published at LR 43:9.

This Emergency Rule shall become effective upon signature, April 27, 2018, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticides

### Chapter 7. Examinations, Certification and Licensure

#### Subchapter B. Certification

#### §711. Certification of Commercial Applicators

A. - E. ...

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

1. In order to renew a certification card, a commercial applicator shall take and pass a commercial applicator proficiency test. All commercial applicators who have not passed the commercial applicator proficiency test on or by December 31, 2017, shall take and pass the commercial applicator proficiency test before their renewal application and/or recertification will be processed.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006), repromulgated LR 32:1011 (June 2006), amended LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 44:

Mike Strain, DVM  
Commissioner

1805#013

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

#### Proficiency Testing for all Structural Licensees and Registered Technicians (LAC 7:XXV.113 and 117)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the commissioner of agriculture and forestry and Louisiana Structural Pest Control Commission declare an emergency to exist and hereby adopt by emergency process the attached regulation requiring proficiency testing for all structural licensees and registered technicians. R.S. 3:3366 grants the Structural Pest Control Commission the authority to adopt rules and regulations “to protect the interests, health, safety, and welfare of the public.” In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing is necessary to protect the health and safety of the public. This Emergency Rule was initially published at LR 43:9-10.

This Emergency Rule shall become effective upon signature, April 27, 2018, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

### Chapter 1. Structural Pest Control Commission

#### §113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. - O. ...

P. Each registered technician shall participate in an entire continuing education program as a condition of

maintaining his or her status as a registered technician at least once annually (July 1 to June 30).

1. Each continuing education program, minimum of four hours of technical training, shall be approved in advance by the department.

2. Each continuing education program shall be a minimum of one hour in length per phase.

3. Documentation of the technician attendance and participation shall be forwarded to the department and a copy retained at the technician's place of employment.

4. All registered technicians must take and pass the registered technician examination and/or the structural pesticide proficiency test in order to maintain his or her status as a registered technician. Any registered technician who has taken and passed the registered technician examination prior to January 1, 2017, but has not taken and passed the structural pesticide proficiency test on or by December 31, 2017, must take the structural pesticide proficiency test in order to maintain his or her status as a registered technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3368 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 35:207 (February 2009), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 42:213 (February 2016), LR 44:

#### **§117. Obligations of the Licensee/Permittee**

A. - D. ...

E. Maintenance of a Commercial Applicator Certification by a Licensee

1. A licensee shall maintain his commercial applicator certification in current status by:

a. attending a continuing educational program for recertification approved by the department;

b. recertification at least once every three years; such recertification shall be completed by December 31 of the year preceding the third anniversary of either the original certification or the most recent recertification;

c. a minimum of six hours of technical training which shall include but not limited to the phases of general pest control, termite control and commercial vertebrate control;

d. a minimum of six hours of technical training for the phase of fumigation;

e. all structural licensees must take and pass the structural licensee examination and/or the structural pesticide proficiency test in order to maintain his or her commercial application certification. Any structural licensee who has taken and passed the structural licensee examination prior to January 1, 2017, but has not taken and passed the structural pesticide proficiency test on or by December 31, 2017, must take the structural pesticide proficiency test in order to maintain his or her commercial application certification.

2. A licensee attending an approved recertification seminar shall attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar.

3. Time and location for each licensee recertification can be obtained by calling or writing to the department;

F. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013), LR 42:214 (February 2016), LR 44:

Mike Strain, DVM  
Commissioner

1805#012

### **DECLARATION OF EMERGENCY**

#### **Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission**

Structural Pest Control (LAC 7:XXV.Chapter 1)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and under the authority of R.S. 3:3366, the commissioner of agriculture and forestry declares an emergency to exist and therefore exercises the emergency provisions of the Administrative Procedure Act in amending the following rules for the implementation of regulations governing fumigation for structural pest control.

Fumigation is an effective and efficient method utilized to control of pests in ships, containers, grain bins, and structures. However, fumigation is a hazardous operation which involves filling the airspace within a structure with a toxic fumigant gas. These fumigants are highly toxic to humans, in addition to insects. Pest control operators should therefore have knowledge and experience of the toxic properties of fumigants before they are allowed to perform fumigations in order to ensure that all necessary precautions are taken to avoid exposure to these hazardous pesticides. The current restrictions set forth in the permanent rules and regulations do not include experience requirements of persons applying to the Structural Pest Control Commission for licensure in the phase of structural fumigation. In addition, the current rules and regulations do not require proper calibration of gas detection instruments which are used to detect concentrations of fumigants in structures.

The commissioner has therefore determined that these emergency rules implementing experience requirements for persons applying to the Structural Pest Control Commission to take the tests to become licensed to perform structural fumigations, and requirements that gas detection instruments be properly calibrated before performing a fumigation for structural pest control are necessary to prevent an imminent peril to the public health, welfare, and safety of Louisiana citizens.

The regulations implemented by this declaration of emergency are in the process of being promulgated as permanent rules and are anticipated to become effective upon completion of promulgation.

This Emergency Rule shall become effective upon the signature of the commissioner, April 27, 2018, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

#### **Title 7**

### **AGRICULTURE AND ANIMALS**

#### **Part XXV. Structural Pest Control**

#### **Chapter 1. Structural Pest Control Commission**

#### **§107. License to Engage in Structural Pest Control**

##### **Work Required**

A. - B.2.d. ...

3. structural fumigation:

a. a degree from an accredited four-year college or university with a major in entomology and having completed 30 jobs in structural fumigation, as a registered technician under the supervision of a licensee in structural fumigation; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience, having completed 30 jobs in structural fumigation as a registered technician under the supervision of a licensee in structural fumigation; or

c. four years of experience, having completed 30 jobs in structural fumigation as a registered technician under the supervision of a licensee in structural fumigation; or

d. four years of experience, having completed 30 jobs in structural fumigation as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission.

C. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 19:1009 (August 1993), LR 23:855 (July 1997), LR 23:1493 (November 1997), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 31:2761 (November 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 37:276 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 42:213 (February 2016), LR 44:

#### **§117. Obligations of the Licensee\Permittee**

A. - H.3.m. ...

n. applicator, department I.D. number; and

o. fumigation instrument calibration.

H.4. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR15:956 (November 1989), LR 21:930 (September 1985), :R 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013), LR 42:214 (February 2016), LR 44:

#### **§147. Fumigation**

A. - A.6. ...

7. The licensee shall have all gas detection/monitoring instruments for the fumigant being used properly calibrated to meet manufacturer standards prior to the application of the fumigant.

B. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 11:332 (April 1985), amended LR 17:251 (March 1991), LR 37:293 (January 2011), LR 44:

Mike Strain, DVM  
Commissioner

1805#011

### **DECLARATION OF EMERGENCY**

#### **Department of Agriculture and Forestry Office of Animal Health and Food Safety**

Turtles (LAC 7:XXI.1909)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:2358.2 and 3:2358.10, notice is hereby given that the Department of Agriculture and Forestry is, by Emergency Rule, amending LAC 7:XXI.1909 regarding requirements for international shipments of turtles. The Emergency Rule was initially published at LR 42:512 and was last published at LR 43:2459 (December 20, 2017).

Currently, LAC 7:XXI.1909 requires a health certificate and certified laboratory report accompany all international shipments, irrespective of whether the country of destination requires the same. Louisiana is the only state in the nation with these exit requirements in lieu of following the entry requirements for the country of destination. The current regulation is overly burdensome and adds additional cost to Louisiana turtle farmers attempting to ship their commodities internationally. By amending LAC 7:XXI.1909 to require a health certificate and certified laboratory report when required by the country of destination, instead of for every international shipment, Louisiana turtle farmers will no longer be subject to an unfair trade disadvantage.

This Rule shall have the force and effect of law on the date of signature, April 10, 2018, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry, or until permanent rules are promulgated in accordance with law.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXI. Animals and Animal Health**

**Chapter 19. Turtles**

**(Formerly Chapter 23)**

**§1909. Movement of Turtle Eggs and Turtles  
(Formerly §2307)**

A. The department shall regulate the movement of turtles or turtle eggs by licensed pet turtle farmers and procedures shall include, but not be limited to, shipment into local and international commerce, as well as shipment to certified laboratories.

1. All turtles or eggs leaving a licensed turtle farm bound for a certified laboratory shall be accompanied by a certificate of inspection. A health certificate from a Louisiana licensed veterinarian stating that the turtles and/or eggs originated from a Louisiana licensed pet turtle farm shall accompany all shipments into international commerce if required by the country of destination. Each health certificate shall identify the final destination of the turtles or eggs they accompany.

2. - 6. ...

7. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package. Turtles or eggs intended for international commerce shall be accompanied by a health certificate and/or a certified laboratory report if either is required by the country of destination.

8. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 44:

Mike Strain, D.V.M.  
Commissioner

1805#003

**DECLARATION OF EMERGENCY**

**Department of Health  
Bureau of Health Services Financing  
and  
Office of Behavioral Health**

Adult Behavioral Health Services  
Termination of Community Psychiatric Support and  
Treatment Services and Psychosocial Rehabilitation Services  
(LAC 50:XXXIII.Chapters 63 and 65)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health has amended LAC 50:XXXIII.Chapters 63 and 65 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by

Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to amend the provisions governing adult behavioral health services to terminate coverage for community psychiatric support and treatment (CPST) services and psychosocial rehabilitation services for Medicaid recipients 21 years of age and older.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$39,610,680 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health amend the provisions governing adult behavioral health services to terminate CPST and psychosocial rehabilitation services for Medicaid recipients 21 years of age and older.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXXIII. Behavioral Health Services**

**Subpart 7. Adult Mental Health Services**

**Chapter 63. Services**

**§6301. General Provisions**

A. - E. ...

F. Services may be provided at a facility, in the community, or in the individual's place of residence. Services may be furnished in a nursing facility only in accordance with policies and procedures issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:60 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

**§6303. Assessments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:60 (January



2016), repealed by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

#### **§6305. Plan of Care**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:60 (January 2016), repealed by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

#### **§6307. Covered Services**

A. The following mental health services shall be reimbursed under the Medicaid Program:

1. therapeutic services, including diagnosis and treatment delivered by LMHPs; and
2. crisis intervention (CI) services.
3. Repealed.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

### **Chapter 65. Provider Participation**

#### **§6501. Provider Responsibilities**

A. - C. ...

D. Providers shall maintain case records that include, at a minimum:

1. the name of the individual;
2. the dates and time of service;
3. risk assessments for CI only;
4. progress notes that include the content of each delivered service, including the reason for the contact describing the goals/objectives addressed during the service, specific intervention(s), progress made toward functional and clinical improvement;
5. units of services provided;
6. crisis plan;
7. discharge plan; and
8. advanced directive.

E. - E.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#026

### **DECLARATION OF EMERGENCY**

#### **Department of Health Bureau of Health Services Financing**

Ambulatory Surgical Centers  
(LAC 50:XI.Chapter 75)

The Department of Health, Bureau of Health Services Financing repeals LAC 50:XI.Chapter 75 and the April 20, 1977 Rule governing ambulatory surgical center services in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing currently provides Medicaid reimbursement for medically necessary preventive, diagnostic, therapeutic, rehabilitative or palliative outpatient services rendered in ambulatory surgical centers. In anticipation of a budgetary shortfall in state fiscal year (SFY) 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to terminate Medicaid reimbursement for ambulatory surgical center services. This Emergency Rule will also repeal the provisions of the April 20, 1977 Rule governing ambulatory surgical center services.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$15,641,124 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing repeals all of the provisions governing Medicaid reimbursement for ambulatory surgical center services.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XI. Clinic Services**

**Subpart 11. Ambulatory Surgical Centers**

**Chapter 75. Reimbursement**

**§7501. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1888 (September 2009), amended LR 38:1961 (August 2012), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

**§7503. Reimbursement Methodology**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:2278 (October 2010), LR 37:1572 (June 2011), LR 39:317 (February 2013), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#027

**DECLARATION OF EMERGENCY**

**Department of Health**  
**Bureau of Health Services Financing**  
**and**  
**Office of Behavioral Health**

Behavioral Health Services

Elimination of Outpatient Substance Use Disorders Services  
(LAC 50:XXXIII.14101, 14303 and 14501)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health amend LAC 50:XXXIII.14101, §§14303 and 14501 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization

review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act.

As a result of a budgetary shortfall in state fiscal year 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to amend the provisions governing substance use disorders (SUD) services in order to eliminate outpatient treatment services for adults. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$46,912,253 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing amends the provisions governing SUD services to eliminate outpatient treatment services for adults.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXXIII. Behavioral Health Services**

**Subpart 15. Substance Use Disorders Services**

**Chapter 141. General Provisions**

**§14101. Introduction**

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for substance use disorders (SUD) services rendered to children and adults. These services shall be administered under the authority of the Department of Health, in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoc) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery. The CSoc contractor shall only manage specialized behavioral health services for children/youth enrolled in the CSoc program.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

**Chapter 143. Services**

**§14303. Covered Services**

A. The following SUD services shall be reimbursed under the Medicaid Program:

1. ...
2. outpatient treatment for children only; and
3. ...

B. Service Exclusions. The following services/components shall be excluded from Medicaid reimbursement:

1. - 3. ...
4. services rendered in an institute for mental disease, unless provided under federal regulations as an “allowed in

lieu of' service, or a U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services' (CMS) approved waiver; and

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

#### **Chapter 145. Provider Participation**

##### **§14501. Provider Responsibilities**

A. - C. ...

D. Anyone providing SUD services must be licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license. Providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes.

E. - F.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#028

### **DECLARATION OF EMERGENCY**

#### **Department of Health Bureau of Health Services Financing**

Disproportionate Share Hospital Payments  
(LAC 50:V.2707 and 3103)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.2707 and §3103 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is

directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act.

As a result of a budgetary shortfall in state fiscal year 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for disproportionate share hospital (DSH) payments in order to revise and clarify the criteria for payments to public state-operated hospitals and Louisiana low-income academic hospitals. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$451,810,562 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for DSH payments to public state-operated hospitals and Louisiana low-income academic hospitals.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

##### **Subpart 3. Disproportionate Share Hospital Payments**

#### **Chapter 27. Qualifying Hospitals**

##### **§2707. Public State-Operated Hospitals**

A. ...

B. DSH payments to individual public state-owned or operated hospitals may be up to 100 percent of the hospital's net uncompensated costs. Final payment may be made in accordance with final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. - D.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:658 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

#### **Chapter 31. Louisiana Low-Income Academic Hospitals**

##### **§3103. Payment Methodology**

A. Each qualifying hospital may be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs.

A.1. - B. ...

C. Effective for dates of service on or after July 1, 2018, the first payment may be made by October 30. The remainder of the payment will be made by January 30, April 30 and June 30 of each year.

1. Reconciliation of these payments to actual hospital specific uncompensated care costs may be made when the cost report(s) covering the actual dates of service from the state fiscal year are filed and reviewed.

2. Additional payments or recoupments, as needed, may be made after the finalization of the Centers for Medicare and Medicaid Services (CMS) mandated DSH audit for the state fiscal year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:523 (March 2017), amended LR 43:961 (May 2017), LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#029

**DECLARATION OF EMERGENCY**

**Department of Health  
Bureau of Health Services Financing**

**Medicaid Eligibility  
Medically Needy Program Termination  
(LAC 50:III.939 and 2313)**

The Department of Health, Bureau of Health Services Financing repeals LAC 50:III.939 and §2313 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to repeal all of the provisions governing the Medically Needy Program (MNP), including Spend-Down MNP, in order to terminate this optional Medicaid program.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$32,730,908 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing repeals all of the provisions governing the Medically Needy Program.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 1. General Administration**

**Chapter 9. Financial Eligibility**

**Subchapter D. Incurred Medical**

**§939. Medically Needy**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1702 (August 2004), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

**Subpart 3. Eligibility Groups and Factors**

**Chapter 23. Eligibility Groups and Medicaid Programs**

**§2313. Medically Needy Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1888 (November 2016), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#030

## DECLARATION OF EMERGENCY

### Department of Health Bureau of Health Services Financing

Medicaid Eligibility  
Provisional Medicaid Program Termination  
(LAC 50:III.2305)

The Department of Health, Bureau of Health Services Financing repeals LAC 50:III.2305 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to repeal the provisions governing the Provisional Medicaid Program in order to terminate this optional Medicaid program.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$106,579,573 for state fiscal year 2018-2019.

Effective July 1, 2018, Louisiana Department of Health, Bureau of Health Services Financing repeals the provisions governing the Provisional Medicaid Program.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part III. Eligibility

#### Subpart 3. Eligibility Groups and Factors

#### Chapter 23. Eligibility Groups and Medicaid Programs

#### §2305. Provisional Medicaid Program

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#031

## DECLARATION OF EMERGENCY

### Department of Health Bureau of Health Services Financing

Medicaid Eligibility  
Special Income Level Eligibility Termination

The Department of Health, Bureau of Health Services Financing hereby repeals the provisions of the March 20, 1986 Rule governing Medicaid eligibility for recipients of long-term care and home and community-based services as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act.

The Department of Health and Human Resources, Office of Family Security promulgated a Rule which continued the provisions of the January 1, 1986 Emergency Rule (*Louisiana Register*, Volume 11, Number 12) which amended the provisions governing Medicaid eligibility in order to increase the maximum income limit before deductions for recipients eligible for long-term care and home and community-based services to 300 percent of the supplemental security income benefit rate, otherwise referred to as the special income level (SIL) eligibility group (*Louisiana Register*, Volume 12, Number 3).

As a result of a budgetary shortfall in state fiscal year 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to repeal the provisions of the March 20, 1986 Rule governing Medicaid eligibility in order to terminate the optional Medicaid SIL eligibility group coverage. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$971,687,052 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing repeals the provisions of the

March 20, 1986 Rule governing the optional Medicaid SIL eligibility group coverage.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#032

## DECLARATION OF EMERGENCY

### Department of Health Bureau of Health Services Financing

#### Nursing Facilities—Reimbursement Methodology (LAC 50:II.20001)

The Department of Health, Bureau of Health Services Financing amends LAC 50:II.20001 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for nursing facility services in order to suspend the provisions of LAC 50:II.Chapter 200 governing the rebasing methodology and trending requirements for nursing facility rates, and to impose provisions to ensure that the current rates in effect do not increase for the SFY 2018-2019 rating period.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$57,020,345 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing amends the reimbursement methodology for nursing facilities to suspend the provisions governing the rebasing methodology.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Nursing Facilities

##### Subpart 5. Reimbursement

#### Chapter 200. Reimbursement Methodology

##### §20001. General Provisions

A. - C.7. ...

D. Effective for the rate period of July 1, 2018 through June 30, 2019, the department shall suspend the following provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and impose the following provisions governing reimbursement for nursing facility services.

1. During this time period, rebasing of rates required under LAC 50:II.Chapter 200 shall be suspended.

2. During this time period, no inflation factor will be applied to the base resident day medians and prices calculated as of July 1, 2016.

3. During this time period, no costs and cost components will be trended forward.

4. During this time period, for each quarter, each facility’s specific direct care component of both the statewide price and the statewide floor shall not be multiplied by each nursing facility’s average case-mix index for the prior quarter and shall instead be multiplied by each nursing facility’s average case mix index in effect for the rate period ending June 30, 2018.

5. During this period, each facility’s fair rental value shall be equal to that in effect for the rate period ending June 30, 2018.

6. Base capital values for the Bed Buy-Back Program purposes will be set equal to the value of these items as of July 1, 2016.

7. No other provisions of the current nursing facility reimbursement methodology shall be suspended for this period.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:525 (March 2017), LR 43:2187 (November 2017), LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#033

# DECLARATION OF EMERGENCY

## Department of Health Bureau of Health Services Financing

Nursing Facilities  
Reimbursement Methodology  
Leave of Absence Days  
(LAC 50:II.10147 and 20021)

The Department of Health, Bureau of Health Services Financing amends LAC 50:II.10147 and repeals §20021 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act.

As a result of a budgetary shortfall in state fiscal year 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for nursing facility services in order to eliminate payments for leave of absence days for patients who are on leave due to hospitalization or visits to home and/or family members. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$2,972,805 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing amends the reimbursement methodology for nursing facility services to repeal the provisions governing leave of absence days.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part II. Nursing Facilities

#### Subpart 3. Standards for Payment

### Chapter 101. Standards for Payment for Nursing Facilities

#### Subchapter F. Vendor Payments

#### §10147. General Provisions

A. - C. ...

D. Temporary Absence Due to Evacuation. When local conditions require evacuation of residents in nursing facilities, the following payment procedures apply.

1. When the resident is evacuated for less than 24 hours, the monthly vendor payment to the facility is not interrupted.

2. When the staff is sent with the resident(s) to the evacuation site, the monthly vendor payment to the facility is not interrupted.

a. - b. Repealed.

NOTE: Repealed.

3. When the resident is evacuated to a family member or friend's home, at the facility's request, the facility shall submit a claim for a day of service or leave day, and patient liability shall not be collected.

4. When the resident goes home at the family's request or on their own initiative, a leave day shall be charged.

5. When the resident is admitted to the hospital for the purpose of evacuation of the nursing facility, Medicaid payment shall not be made for the hospital charges.

NOTE: Repealed.

6. - 7. Repealed.

E. Resident Deposits. A facility shall neither require nor accept an advance deposit from a resident whose Medicaid eligibility has been established.

EXCEPTION: A facility may require an advance deposit for the current month only on the part of the total payment which is the resident's liability.

1. If advance deposits or payments are required upon admission from the resident(s) or resident's legal representative or sponsor, when Medicaid eligibility has not been established, then such deposits shall be refunded or credited to the individual upon receipt of vendor payment.

2. Credit on the facility's books in lieu of a refund to the resident or resident's legal representative or sponsor is acceptable within the following limitations.

a. Such credit shall not exceed an amount equal to the resident's liability for 60 days following the date the resident was determined eligible for Medicaid.

b. Any deposit exceeding such an amount shall be refunded within five working days to the resident or resident's legal representative or sponsor.

3. - 5. Repealed.

F. Refunds to Bureau of Health Services Financing (BHSF) Medicaid Program

EXCEPTION: Repealed.

1. A Non-Participating Facility. Vendor payments made for the services performed while a facility is in a non-participating status shall be refunded to the Department of Health, Office of Management and Finance. The refund shall be made payable to the Bureau of Health Services Financing Medicaid Program.

2. A Participating Facility. A currently participating Medicaid facility shall correct billing or payment errors by the use of appropriate adjustment/void or resident liability (PLI) adjustment form

a. - b. Repealed.

G. Refunds to Residents. Advance payments for a resident's liability (applicable income) shall be refunded promptly if he/she leaves the facility before the end of the month. This requirement shall also apply if the resident has not yet been certified. The facility shall adhere to the following procedures for the refunds.

1. The proportionate amount for the remaining days of the month shall be refunded to the resident or the resident's legal representative or sponsor no later than the end of the month following discharge.

2. No penalty shall be charged to the resident or resident's legal representative or sponsor even if the circumstances surrounding the discharge occurred as follows:

- without prior notice;
- within the initial month; and

c. within some other "minimum stay" period established by the facility.

3. Proof of refund of the unused portion of the applicable income shall be furnished to the BHSF Medicaid Program upon request.

H. - H.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

### **Subpart 5. Reimbursement**

#### **Chapter 200. Reimbursement Methodology**

##### **§20021. Leave of Absence Days**

**[Formerly LAC 50:VII.1321]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 41:133 (January 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#034

## **DECLARATION OF EMERGENCY**

### **Department of Health Bureau of Health Services Financing**

**Pediatric Day Health Care Program Termination  
(LAC 50:XV.Chapters 275-281)**

The Department of Health, Bureau of Health Services Financing repeals LAC 50:XV.Chapters 275-281 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance

with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing currently provides an array of services designed to meet the medical, social and developmental needs of children up to the age of 21 who have complex medical conditions which require skilled nursing care and therapeutic interventions on an ongoing basis through the Pediatric Day Health Care Program.

As a result of a budgetary shortfall in state fiscal year (SFY) 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to repeal the provisions governing the Pediatric Day Health Care Program in order to terminate these services.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$30,326,012 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing repeals the provisions governing the Pediatric Day Health Care Program in order to terminate the program.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 19. Pediatric Day Health Care Program**

###### **Chapter 275. General Provisions**

###### **§27501. Program Description and Purpose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017), repealed LR 44:

###### **§27503. Recipient Criteria**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended LR 41:137 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017), repealed LR 44:

###### **Chapter 277. Services**

###### **§27701. Service Coverage and Limitations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

###### **Chapter 279. Provider Participation**

###### **§27901. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR



36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017), repealed LR 44:

## **Chapter 281. Reimbursement Methodology**

### **§28101. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended LR 39:1286 (May 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017), repealed LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1805#035

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **2018 Opening of Zone 2—Spring Inshore Shrimp Season**

The Wildlife and Fisheries Commission was notified that recent biological samples indicated brown shrimp could reach marketable sizes before the scheduled May 3, 2018 Wildlife and Fisheries Commission meeting, and a special commission meeting was called by the commission to review that data. After considering the biological information and public input, the commission took action to open the spring shrimp season in the inshore waters of zone 2.

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set a portion of the 2018 spring shrimp season in Louisiana state waters to open as follows:

That portion of state inside waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Freshwater Bayou Canal shall open at 6 a.m. on Monday, April 30, 2018.

The commission hereby grants authority to the secretary of the Department of Wildlife and Fisheries to delay or advance these opening dates if biological and technical data indicate the need to do so and to close any portion of Louisiana's inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

Robert J. Samanie III  
Chairman

1805#014

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **2018 Opening of Zones 1 and 3 Spring Inshore Shrimp Season**

The Wildlife and Fisheries Commission received information regarding biological sampling for brown shrimp in zones 1 and 3. The Department of Wildlife and Fisheries (LDWF) provided the commission with data that projected the "crossover" date which indicates when 50 percent of brown shrimp would reach 100 count size. After considering biological information and public input, the commission took action to set the spring shrimp season in the inshore waters of zones 1 and 3.

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set a portion of the 2018 spring shrimp season in Louisiana state waters to open as follows:

That portion of shrimp management zone 1 from the Mississippi/Louisiana state line to the southern shore of the Mississippi River Gulf Outlet to open at 6 a.m., May 21, 2018.

That portion of shrimp management zone 1 from the southern shore of the Mississippi River Gulf Outlet to the eastern shore of south pass of the Mississippi River to open at 6 a.m., May 9, 2018.

That portion of state inside waters from the western shore of Freshwater Bayou Canal westward to the Louisiana/Texas state line to open at 6 a.m., May 21, 2018.

The commission hereby grants authority to the secretary of the Department of Wildlife and Fisheries to delay or advance these opening dates if biological and technical data indicate the need to do so, and; to close any portion of Louisiana inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to

do so, or enforcement problems develop. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

Robert J. Samanie, III  
Chairman

1805#023

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### 2018 Private Recreational Red Snapper Season

On April 13, 2018, the Department of Wildlife and Fisheries was notified by the National Oceanic and Atmospheric Administration (NOAA) Fisheries that an exempted fishing permit (EFP) was issued allowing private recreational anglers to harvest red snapper from the federal waters of the exclusive economic zone (EEZ) during the state season set by the Wildlife and Fisheries Commission (LWFC). The NOAA Fisheries removed the charter sector from the approved EFP. State-permitted charter guides are only allowed to fish for red snapper within state waters (less than 9 nautical miles from the Louisiana coast). Recreational harvest of red snapper from state-permitted charter guides will be deducted from the total recreational allocation established in the EFP. The EFP mandated a maximum private recreational allocation of 743,000 pounds of red snapper. Any state season or seasons shall be closed once this allocation is reached or projected to be reached. Federally-permitted charter vessels are not part of the EFP and can only harvest red snapper during seasons determined by NOAA Fisheries whether inside or outside state waters and regardless of established seasons in state waters.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use Emergency Rules to set finfish seasons and R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the commission hereby declares:

The 2018 Louisiana recreational red snapper season opening shall be May 25, 2018, 12:01 a.m., and will run 7 days a week until La Creel landings estimate the Louisiana private recreational anglers (including state charter landings) has reached its 2018 target of 743,000 pounds of red snapper. This season will be in accordance with the provisions of the Louisiana EFP that allows for take within state and federal waters out to 200 nautical miles, with a 2 fish bag and possession limit and a 16-inch minimum length. Weekly landings estimates will be posted on the LDWF website and presented to LWFC members each week. Should weekly La Creel data indicate landing rates that would not allow for the 2018 red snapper season to extend to the Labor Day holiday weekend (ending September 3, 2018), the LWFC will reconvene and make an adjustment to the 2018 red snapper season to 3-day weekends and holidays similar to the 2017 red snapper season in an effort to reach the September 3, 2018 target. This adjustment could come at a regularly scheduled LWFC meeting or a special meeting

called by the chairman. The secretary of Wildlife and Fisheries has the authority to make every reasonable attempt to close the season on the nearest Sunday (or holiday) prior to when the 743,000 pounds red snapper landings estimate established by La Creel is projected to be met using recent landings and the best available data, upon notice to the Wildlife and Fisheries Commission chairman. Should there be any remaining pounds for Louisiana in 2018 determined by La Creel or for any other reason, the Wildlife and Fisheries Commission will consider reopening the red snapper season within the 2018 calendar year.

Any such closure shall also prohibit the possession and/or landing of red snapper in state waters, except for situations involving federally permitted charter vessels or commercial individual fishing quota (IFQ) holders operating under federal law during federally established seasons.

Robert J. Samanie, III  
Chairman

1805#025

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### Boeuf Wildlife Management Area Reopening

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following Emergency Rule.

Currently, due to excessive high water levels associated with excessive rainfall along with backwater flooding, Boeuf Wildlife Management Area is closed to all activities. Water has receded on this area. Staff have inspected area roads and have deemed the area suitable and safe for public access. Therefore, it is deemed appropriate to reopen this area to all activities.

In accordance with the provisions of R.S. 56:6.1, public access to and use of the above-mentioned wildlife management area shall be as follows: open to all activities. This Declaration of Emergency shall become effective April 27, 2018.

Jack Montoucet  
Secretary

1805#007

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### Extension of Oyster Season in the West Cove Portion of the Calcasieu Lake Public Oyster Area

The oyster season in the west cove portion of the Calcasieu Lake public oyster area is scheduled to close on April 30, 2018. The east side of Calcasieu Lake was not opened for this season. Biological data suggests that there are harvestable oyster resources available in the area and

reopening the area for a two-week market-only harvest season will not harm the resource. The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to open areas if substantial oyster resources are located.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953, and under the authority of R.S. 56:435:1.1(C) which provides that the Wildlife and Fisheries Commission may open or close the season as biological data indicate a need, and under the authority granted to the secretary of the Department of Wildlife and Fisheries by the commission on September 7, 2017, the secretary hereby declares that the public oyster seed grounds within the west cove portion of the Calcasieu Lake public oyster area as described in R.S. 56:435.1.1 shall remain open for the harvest of oysters for market sales until one-half hour after sunset on May 15, 2018.

This action shall not supersede public health closures. During the opening, the following provisions shall be in effect.

1. Any vessel from which any person(s) takes or attempts to take oysters from the public oyster area described above shall be limited to a daily take and possession limit not to exceed seven sacks per person per vessel per day. A sack of oysters for the purposes of this Declaration of Emergency shall be defined as the size described in R.S. 56:440. If sacks smaller than the size described in R.S. 56:440 are used, the daily harvest and possession limit shall be based on the number of sacks harvested. The possession limit shall not apply to vessels operating under a valid oyster cargo vessel permit, and these vessels shall not harvest oysters.

2. If any person on a vessel takes or attempts to take oysters from the public oyster area described above, all oysters contained on that vessel shall be deemed to have been taken from said area from the time harvest begins until all oysters are off-loaded dockside.

3. Prior to leaving the public oyster area with oysters harvested from said public oyster area for market purposes: all oysters must be sacked, the number of sacks shall be recorded in a log book, and each sack shall be properly tagged.

4. Oyster scrapers are prohibited on vessels actively harvesting.

The east side of the Calcasieu Lake public oyster area shall remain closed.

The secretary of the Department of Wildlife and Fisheries has the authority to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

Prior to any action, the secretary shall notify the chairman of the Wildlife and Fisheries Commission of his intention to make any or all of the changes indicated above.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such

action unless such closure is ordered by the Louisiana Department of Health for public health concerns.

Jack Montoucet  
Secretary

1805#015

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Grassy Lake Wildlife Management Area Reopening**

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following Emergency Rule.

Currently, due to excessive high water levels associated with excessive rainfall along with backwater flooding, Grassy Lake Wildlife Management Area is closed to all activities. Water has receded on this area. Staff have inspected area roads and have deemed the area suitable and safe for public access. Therefore, it is deemed appropriate to reopen this area to all activities.

In accordance with the provisions of R.S. 56:6.1, public access to and use of the above-mentioned wildlife management area shall be as follows: open to all activities. This Declaration of Emergency shall become effective April 27, 2018.

Jack Montoucet  
Secretary

1805#008

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Opening of Shrimp Season in Portion of State Outside Waters**

The secretary has been notified that recent biological samples taken by Office of Fisheries biologists indicate that small white shrimp which have over-wintered in these waters from December through the present time have reached marketable sizes and the closure is no longer necessary. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and

based upon technical and biological data which indicate that marketable shrimp, in sufficient quantities are available for harvest; and, a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 3, 2017 which authorizes the secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary hereby declares:

That state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 out to the three-mile line, from the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line westward to western shore of Freshwater Bayou Canal at -92 degrees 18 minutes 33 seconds west longitude shall reopen to shrimping at 6 a.m., April 24, 2018.

Jack Montoucet  
Secretary

1805#005

### **DECLARATION OF EMERGENCY**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Reef Fish—Harvest Regulations  
2018 Greater Amberjack  
Commercial Season Modifications

The secretary has been notified by NOAA Fisheries that the commercial season for greater amberjack in federal waters of the Gulf of Mexico will remain closed until January 1, 2019. The commercial season was scheduled to open on June 1, 2018; however, the commercial quota has been reached and the season will remain closed. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery and to prevent overfishing of the species over time.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when the secretary is informed by the regional administrator of the National Oceanic and Atmospheric Administration (NOAA) Fisheries that the seasons have been modified in adjacent federal waters, the secretary hereby declares:

The commercial fishery for greater amberjack in Louisiana waters will remain closed until January 1, 2019, at which time the commercial fishery for greater amberjack will reopen. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or

attempt to purchase, barter, trade or sell greater amberjack whether within or outside Louisiana waters. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing greater amberjack taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Jack Montoucet  
Secretary

1805#002

### **DECLARATION OF EMERGENCY**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Reef Fish—Harvest Regulations  
2018 Greater Amberjack  
Recreational Season Modifications

The secretary has been notified by the National Marine Fisheries Service that the recreational greater amberjack season in federal waters of the Gulf of Mexico will open on May 1, 2018 and remain open through May 31, 2018. The recreational season will be closed from June 1, 2018 through July 31, 2018 in accordance with the fixed closed season. The season will re-open on August 1, 2018 and remain open through October 31, 2018 or until the recreational quota for the harvest of greater amberjack has been met or projected to be met.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use Emergency Rules to set finfish seasons, R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when the secretary is informed by the regional administrator of the National Oceanic and Atmospheric Administration (NOAA) Fisheries that the seasons have been re-opened in adjacent federal waters, the secretary hereby declares:

Effective May 1, 2018, the recreational fishery for greater amberjack in Louisiana waters will open and remain open through May 31, 2018, at which time the season will close. The recreational season for the harvest of greater amberjack will then re-open August 1, 2018 and remain open through October 31, 2018 or until the recreational quota for the harvest of greater amberjack has been met or projected to be met.

Jack Montoucet  
Secretary

1805#001

# Rules

## RULE

### Department of Children and Family Services Child Welfare Division

Chafee Foster Care  
Independence Program and Young Adult Program  
(LAC 67:V.3901 and 3903)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:V, Subpart 5, Foster Care, Chapter 39, Chafee Foster Care Independence Program (CFCIP) and Young Adult Program.

Section 3901 has been amended to include the utilization of the CFCIP grant funds and to eliminate the information regarding the Young Adult Program. Section 3903 has been repealed as the Child Welfare Young Adult Program has been terminated. This Rule is hereby adopted on the day of promulgation and will become effective on June 1, 2018.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Child Welfare

#### Subpart 5. Foster Care

#### Chapter 39. Chafee Foster Care Independence Program

#### §3901. Chafee Foster Care Independence Program

A. The Department of Children and Family Services, Child Welfare Division will provide a Chafee Foster Care Independence Program (CFCIP) to assist youth in making preparations for living independently, including, but not limited to résumé writing, budgeting, banking and other financial skills, and conflict management skills. The CFCIP provides opportunities for youth to interact with other youth from similar backgrounds, and to receive supportive services until 26 years of age, with the exception of educational assistance via the Chafee educational and training voucher (ETV), which is available until 23 years of age.

B. The DCFS will provide CFCIP services based upon the availability of funds, up to the maximum allowable amount funded by the federal Chafee Act, in compliance with the requirements of the program, and the varying identified needs of each youth.

C. Eligibility for the CFCIP is limited to youth who meet the requirements of the program and is based on the availability of federal funding. Participants should be either: DCFS foster youth from 14 years of age to age 18; foster youth who aged out of foster care from 18 to 26 years old; foster youth who were adopted from foster care after 16 years of age to 26 years of age; Office of Juvenile Justice youth from 14 years of age to 26 years of age; youth in a court ordered guardianship from foster care initiated after 16 years of age to 26 years of age; and/or Native American youth from 13 years of age to 26 years of age who were in state or tribal custody. Youth in a secure placement (detention, jail, etc.) are not eligible for services provided by Chafee funds.

D. The allowable services and activities must be purposefully planned by the foster care worker and the youth to meet specific needs that have been identified and addressed in the youth's transitional living plan. The allowable services may include:

1. training delivered by Chafee independent living providers contracted with DCFS to prepare youth for living independently;
2. an assessment of independent living skills to identify which skills are needed and a written individualized transitional living plan, based on the assessment;
3. a monetary payment/stipend upon completing the CFCIP coursework and questionnaire, if resources allow;
4. assistance with obtaining an independent living arrangement and/or housing;
5. case management services; and
6. assistance with educational expenses, which could include educational and training voucher services, with need being determined by contracted providers.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 677 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 35:2205 (October 2009), amended by the Department of Children and Family Services, Child Welfare Division, LR 44:908 (May 2018), effective June 1, 2018.

#### §3903. Young Adult Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:471 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 35:2205 (October 2009), repealed by the Department of Children and Family Services, Child Welfare Division, LR 44:908 (May 2018), effective June 1, 2018.

Marketa Garner Walters  
Secretary

1805#021

## RULE

### Office of the Governor Board of Cosmetology

Cosmetologists  
(LAC 46:XXXI.Chapters 3, 5, 7, 9, 11, 12, and 17)

The Louisiana State Board of Cosmetology, under authority of the Louisiana Cosmetology Act, R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended certain rules regarding course requirements, examination of applicants, reporting student hours, transfer students, cosmetology schools, manicuring salons, pedicuring, alternative hair design, shampoo assistants and picture identification; to enact rules regarding blow-dry technicians, mobile salons and threading and to repeal rules regarding special permits for make-up application.

The revisions are necessary to update the rules and to enact rules to implement R.S. 37:575(17)(a) and R.S. 37:591.1 enacted by Act 611 (2016). This Rule is hereby adopted on the day of promulgation.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXXI. Cosmetologists**

#### **Chapter 3. Schools and Students**

#### **§301. Cosmetology Course Requirements**

- A. - A.1.f. ...  
g. hair removal by cosmetic preparations, threading, waxing or other similar means;  
2. - 2.d. ...  
e. esthetics;  
f. ...  
g. manicuring and pedicuring;  
3. - 3.d. ...  
4. hair designing and styling;  
a. - b. ...  
c. alternative hair design/braiding;  
5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:326 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:909 (May 2018).

#### **§303. Esthetics Course Requirements**

- A. - A.2.g. ...  
h. hair removal by cosmetic preparations, threading, waxing or other similar means;  
2.i. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:326 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:909 (May 2018).

#### **§308. Blow-Dry Technician Course Requirements**

A. Curriculum. The blow dry technician curriculum shall consist of:

1. at least 500 hours of theory instruction including but not be limited to the following:
  - a. scientific concepts;
  - b. infection control:
    - i. safety;
    - ii. sanitation;
    - iii. electricity;
  - c. OSHA requirements;
  - d. human physiology;
  - e. hazards to hair and scalp;
2. at least 500 hours of clinical instruction during which the student shall perform the following services:
  - a. cleaning hair;
  - b. arranging, curling, dressing and other similar procedures with the use of a blow dryer;
3. Louisiana Cosmetology Act and rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(17)(a).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 44:909 (May 2018).

#### **§309. Examination of Applicants**

- A. - A.4. ...  
5. persons holding a cosmetology, esthetics, manicuring or instructor license issued by another state;  
6. persons holding a cosmetology, esthetics, manicuring or instructor license issued by another country who have received board approval; and  
7. blow-dry technician students who have completed 1000 hours of the blow-dry technician curriculum.  
B. Applications. Applications for examinations must be accompanied by a student registration certificate, cumulative hours' report, a color photograph of the student, the \$25 initial license fee, and all applicable examination fees.

C. - C.1. ...  
2. All requirements must be met prior to applying for the national theory and practical examinations.

3. Any applicant who attended a school unable to issue a certification due to temporary closure does not provide the certification required by this section prior to issuance of a certificate of registration or a license, shall provide the certification required by this Subsection prior to renewing the certificate of registration or license, if the cosmetology school from which they graduated is able to issue the certification prior to renewal of the certificate of registration or license.

D. - E. ...  
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(4) and R.S. 37:586.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:834 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 44:909 (May 2018).

#### **§310. Ineligibility for Examination**

Repealed.  
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 37:1150 (April 2011), repealed by the Office of the Governor, Board of Cosmetology, LR 44:909 (May 2018).

#### **§311. Reporting Student Hours**

A. Registration. Schools shall register students with the board by submitting an accurate and completed registration application as well as the required supporting documentation within 60 days after the students start school. The maximum number of hours which will be accepted by the board at the time of registration is the number of hours earned within 60 days preceding registration.

B. Hours. Schools must register each student's hours with the board no later than on the tenth of the month for hours earned by each enrolled student in the prior month. Any student who did not earn any hours during the month shall be included on the report and the number of hours earned shall be reported as zero.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(4) and R.S. 37:586.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:835 (May 2006), LR 33:1628 (August 2007), amended by the Office of the Governor, Board of Cosmetology, LR 44:909 (May 2018).

### §313. Transfer Students

A. Out-of-State. The board will accept student transfer hours certified by the board supervising the out-of-state or if supervising board does not register student hours from the school provided that the hours are transferred to a Louisiana school and were earned within the preceding three years. Certifications of hours must be mailed to the board from the appropriate entity. The Louisiana school shall evaluate the student's transcript and determine how many hours of the curriculum have been completed by the student. The school shall submit to the board a verification of the number of transferable hours which shall include supporting data.

B. - B.1. ...

2. certification of payment of contractual fees owed to the former school, unless the former school is unable to certify payment of contractual fees owed due to temporary or permanent closure or loss of records;

B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598(A)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:834 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 44:910 (May 2018).

### §315. Responsibilities of Schools

A. Enrollment. Upon initial enrollment of a student, the school must provide the following to the board:

1. - 3. ...

a. for non-postsecondary cosmetology schools proof of completion of education equal to the tenth grade; or any documentation listed in Subparagraph b of this Paragraph:

b. for postsecondary schools:

i. proof of a high school diploma from an approved high school;

ii. general equivalency diploma; or

iii. education equivalent of a diploma from an approved high school;

4. a color photograph of the student;

5. the student registration fee; and

6. copy of Social Security card.

B. - D. ...

E. Faculty. All schools must maintain a faculty of at least one instructor per every 20 students enrolled. Each faculty shall include at least 2 instructors, who are teachers registered by the board, at least 1 of whom shall have been a registered teacher and in active practice for at least 18 months. The school shall be supervised by a registered teacher of cosmetology in active practice, with at least 24 months of teaching experience in an accredited school of cosmetology approved by the board. The senior instructor shall supervise all other faculty members. An instructor roster must be submitted on a quarterly basis.

F. - L. ...

M. Hours. Schools must adopt a policy for the recordation of student hours and shall verify that all equipment used in the process is in working order. Each school shall post a monthly summary of hours earned by each student.

N. ...

O. Dropped Students. Schools shall provide to the board a completed notice of termination form, a contractual fee form indicating either a payment or nonpayment and the student's registration within 30 days of the student's termination date for each student who is no longer enrolled at the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:595.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:910 (May 2018).

## Chapter 5. Licensees

### §502. Managers

A. For purposes of R.S. 37:589, a shop owner or mobile salon owner shall be required to employ a manager, if absent from his shop more than two days per week who shall be a registered cosmetologist and who shall obtain a certificate of registration as a manager. However, a registered manicurist may manage a manicuring salon, and a registered esthetician may manage an esthetics salon. A registered manager shall be present at the salon during all hours of operation and shall be responsible for ensuring that all persons practicing within the facility are appropriately licensed and follow all applicable laws and rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 32:835 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 44:910 (May 2018).

### §503. School Licenses Issued to Legal Entities

A. - A.1. ...

2. a financial statement which includes a profit and loss statement, balance sheet and three-year forecast;

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:910 (May 2018).

### §507. Blow-Dry Technicians

A. The board shall issue a blow-dry technician license to any individual who completes the blow-drying hair services course in a licensed school, successfully passes the examinations required by the board and pays the applicable license fee.

B. Blow-dry technician licenses shall be renewed annually on or before the licensee's birthday. The license shall expire 30 days following the licensee's date of birth if not timely renewed.

C. Blow-drying hair services shall be performed only at licensed cosmetology salons.

D. Blow-dry technicians shall perform blow-drying hair services in areas or stations clearly designated for blow-

drying hair services only. Such stations or areas shall not have equipment for performing cosmetology services other than blow-drying hair services.

E. Blow-drying technicians shall work all times under the supervision of a licensed cosmetologist who shall be responsible for ensuring that only blow-drying hair services are performed by the blow-dry technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(17)(a).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 44:910 (May 2018).

## **Chapter 7. Safety and Sanitation Requirements**

### **§709. Equipment Required in Salons Offering Manicuring Services**

A. - A.7. ...

B. Manicuring salons shall not have on-the-premises equipment listed in §707.B.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 32:835 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 44:911 (May 2018).

### **§713. Procedures for Manicuring and Pedicuring Services**

A. All manicurists and cosmetologists performing manicuring or pedicuring services shall:

1. wash his or her hands using antimicrobial wash prior to performing any manicuring or pedicuring service;
2. - 3. ...
4. wash all towels and linens in disinfecting detergent;
5. place all used disposable items in a closed, bagged, trash container; and
6. sanitize pedicuring tub after each service in accordance with the manufacturer's instructions or in a manner consistent with recommended procedures necessary to prevent infection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended LR 32:835 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 44:911 (May 2018).

## **Chapter 9. Inspections**

### **§901. Access of Inspectors**

A. Access. Inspectors and employees of the board are entitled to enter any premises or mobile salon licensed by the board, to interview any person present at the facility and to examine all work records pertaining to the cosmetology profession during the regular business hours of the facility.

B. Information. Any proprietary information gained by an inspector or employee of the board during an inspection shall remain confidential unless the information is to be offered as evidence in an administrative hearing or court proceeding concerning a license issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(10).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:911 (May 2018).

## **§903. Violations**

A. ...

B. Violation Notice. Inspectors must present the licensee with a duplicate copy of the violation notice.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:911 (May 2018).

## **Chapter 11. Special and Temporary Permits**

### **§1101. Special Permits**

A. - A.3. ...

4. threading.

B. All special permits issued by the board shall be valid for a period of one year. Alternative hair design and make-up permits issued prior to December 31, 2016, shall be renewable annually upon payment of the applicable permit fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:911 (May 2018).

### **§1105. Special Permit for Alternative Hair Design**

A. Alternative Hair Design. Individuals with special permits for alternative hair design shall be authorized to provide alternative hair design services only in facilities licensed by the board as cosmetology salons.

B. Notwithstanding the provisions of Subsection A, any person who applies for a special permit to practice alternative hair design who, has been issued an alternative hair design permit in another state and satisfactorily demonstrates two years of experience in the practice of alternative hair design shall be issued a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:2781 (December 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:911 (May 2018).

### **§1109. Special Permit for Shampoo Assistants**

A. Shampoo Assistants. A special permit authorizing the performance of shampooing shall be issued to any person who successfully completed at least 40 hours of training in shampooing, draping and rinsing at a cosmetology school approved by the board.

B. A special permit authorizing the salon owner or manager to train individuals who work in the salon, as shampoo assistants if the salon owner or manager has completed at least 40 hours of training in shampooing. No individual enrolled in a cosmetology school shall work as a shampoo assistant.

C. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:2781 (December 2003), LR 32:835 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 44:911 (May 2018).



## §1110. Special Permits for Threading

### A. Definitions

*Threader*—a person who engages in the practice of threading for compensation, directly or indirectly, including tips.

*Threading*—the practice of using a thread to remove facial hair, including hair on the ears and neck but does not include hair removal by any other means or any other practice within the definition of esthetics.

*Threading Facility*—any premises upon or within which threading is practiced for compensation, directly or indirectly, including tips.

### B. Qualifications for Permit as a Threader

1. In order to receive a permit as a registered threader, a person shall meet all of the following requirements:

- a. be at least 16 years of age; and
- b. complete the board's required training on sanitation.

C. A threading facility owner, who is not a licensed cosmetologist or an esthetician or permitted as a threader, shall employ one or more registered managers who shall be licensed as cosmetologists or estheticians or permitted as a threader. A registered manager shall be present at the facility during all hours of operation and shall be responsible for ensuring that all persons practicing threading within the facility are appropriately licensed and follow all applicable laws and rules and regulations. A threading facility owner who is absent from his respective facility more than two working days per week shall employ a manager, who shall be a registered cosmetologist or an esthetician or a permitted threader and who shall obtain a certificate of registration as a manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 44:912 (May 2018).

## §1111. Special Permit for Make-Up Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:2782 (December 2003), LR 32:836 (May 2006), repealed by the Office of the Governor, Board of Cosmetology, LR 44:912 (May 2018).

## Chapter 12. Mobile Salons

### §1201. Mobile Salons

A. The operation of mobile cosmetology salons shall meet and at all times remain in compliance with all federal, state and local laws and ordinances regulating mobile businesses in the areas in which the mobile salon operates, including all applicable requirements of the Americans with Disabilities Act and the occupational safety and health requirements. A ramp or lift shall be available for access to the mobile unit to provide services for disabled individuals.

B. Each mobile salon shall at all times comply with the requirements of chapter 6A of title 37 of the *Louisiana Revised Statutes* and all rules promulgated by the board applicable to cosmetology salons at fixed locations except to the extent any rule is in direct conflict with this rule.

C. The geographical boundaries within which the mobile salon is permitted to operate shall extend no further than a

50-mile radius from the designated storage locations and shall include only the cities and parishes within which the mobile unit has obtained permits to provide cosmetology services.

D. To facilitate inspections, every mobile salon shall:

1. prior to the first of each month, each mobile salon license holder shall file with the board a written itinerary on the form required by the board for the month listing the dates, hours and location when the mobile salon will be operation. Said form shall be signed by the owner or manager and shall include the names of all individuals who will be performing services on each date;

2. the salon name, as it appears on the salon license, shall be in lettering at least 5 inches in height and shall be visibly displayed and clearly legible on at least two exterior sides of the mobile salon;

3. if a mobile salon is a registered motor vehicle, the vehicle's identification number shall be included on the mobile salon's application for licensure and shall also be listed on the mobile salon's monthly itinerary filed with the board;

4. each mobile salon shall have a phone or other means of telecommunication by which the salon can be contacted by board personnel and customers. The salon's phone and a valid email address shall be included on the mobile salon's application for licensure and shall also be listed on the mobile salon's monthly itinerary;

5. each mobile salon shall be operated only at the times and locations specified in its monthly itinerary filed with the board. Mobile salons shall operate only when the facility is parked and only at locations where the salon owner has obtained prior permission of the property owner and complies with all zoning restrictions. No cosmetology services shall be performed while the mobile salon is in motion;

6. each mobile salon owner shall maintain a business address in Louisiana where the mobile salon and records of appointments, itineraries, license numbers of individuals performing cosmetology services, and vehicle identification numbers shall be kept and made available for inspection by board's staff and at which correspondence from the board can be received. Post office box addresses or private mail box addresses may not be used for these purposes.

a. Due to inherent problems of providing sufficient water and sewage services to mobile salons, the following requirements shall apply.

i. Each mobile salon shall be equipped with a functional restroom which includes a self-contained, flush chemical toilet with a holding tank and lavatory facilities with hot and cold running water.

ii. Each mobile salon shall have storage capacity for the greater of 100 gallons or 35 gallons of clean water for each cosmetologist working in the mobile salon and a total storage capacity for waste water equal to or greater than the mobile salon's total required capacity for clean water.

b. Operation of a mobile salon shall promptly cease:

i. when the mobile salon's clean water supply is depleted or so diminished that further cosmetology service cannot be completed;

ii. when the mobile salon's waste water storage capacity is reached;

- iii. when the mobile salon's restroom needs to be emptied;
- iv. operation of a mobile salon shall not resume until a sufficient amount of clean water and waste water capacity necessary for completing all cosmetology services undertaken and the restroom is functional is available;
- v. disposal of sewage and waste water by mobile salons shall comply with all applicable federal, state and local laws and regulations.

c. All storage cabinet does shall have safety latches. All equipment which is not stored in stored in storage cabinets shall be securely anchored to the mobile unit.

d. At least one state fire marshal-approved fire extinguisher shall be mounted in public view. Each mobile salon shall be equipped with properly maintained commercial exhaust fans or air filtration equipment compliant with local and state building codes.

e. Applicants for licensure of a mobile salon shall pay the fees applicable to salons at fixed locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1) and R.S. 37:591.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 44:912 (May 2018).

**Chapter 17. Miscellaneous Provisions**

**§1705. Destruction of Premises**

A. - B. ...

C. Temporary Premises. When temporary premises are necessary for the continuance of operation during the repair, the inspector for the area involved may approve such premises provided such premises are temporary with a specific termination date set forth for their use and further provided that such premises are sanitary and sufficient for use during the stated time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended LR 29:2782 (December 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:913 (May 2018).

**§1707. Remodeling**

A. Application. When any school, salon, or mobile salon desires to remodel, application shall be made to the board.

B. Temporary Premises. If remodeling requires the use of temporary premises for the continuance of operation during remodeling, the board member inspector for the area may approve such premises as are adequate provided such premises are sanitary and sufficient for use during the stated time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:913 (May 2018).

**§1709. Picture Identification**

A. All licensees and permittees shall have in their possession a picture identification at any time at which a service is being performed.

B. Each licensee and permittee shall place a photo on the license or permit issued by the board prior to displaying the license at the location where services are being performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended LR 29:2782 (December 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:913 (May 2018).

Steve Young  
Executive Director

1805#009

**RULE**

**Office of the Governor  
Division of Administration  
Racing Commission**

**Associations' Duties and Obligations  
(LAC 35:III.Chapter 57)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has adopted LAC 35:III.5704, 5706, 5710, 5714, 5724, and 5764. In addition, the Racing Commission has amended LAC 35:III.5707, 5709, 5713, and 5723. These rule changes have been codified to further develop sufficient regulations to ensure that racetracks comply with health, safety, and welfare standards. This Rule is hereby adopted on the day of promulgation

**Title 35**

**HORSE RACING**

**Part III. Personnel, Registration and Licensing**

**Chapter 57. Associations' Duties and Obligations**

**§5704. Public Address System**

A. An association shall provide and maintain a public address system capable of transmitting announcements to the patrons and to the stable area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:913 (May 2018).

**§5706. Barns on Backside of Racetrack**

A. An association shall ensure that the barns are kept in good repair and are kept clean by the licensed occupants. Each barn, including the receiving barn, must have a hot and cold water supply available and have ventilation proper for the housing of horses.

B. Any new barns, additions, or expansions built by a licensed association after the adoption of this Rule shall ensure that the individual box stall shall have a minimum dimensions of 10 feet by 10 feet and if constructed of concrete walls, they must be woodlined on the interior up a minimum of 4 feet from the ground or otherwise be insulated for the protection of the stabled horse.

C. An association shall provide an adequate area for the placement of manure removed from the stalls. All manure storage and removal shall be conducted in compliance with the rules and regulations set forth by the Department of Environmental Quality. Nothing in the Rule is to supersede

any requirements set forth by the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:913 (May 2018).

#### **§5707. Fire Prevention Security**

A. A round-the-clock patrol of the fenced area shall be maintained by security officers, who shall pay special attention to the presence of unauthorized personnel, to the enforcement of fire prevention measures and to the inspection of tack rooms and living quarters for fire hazards.

B. The association shall ensure compliance with the local fire marshal regarding safety regulations and shall provide the commission proof of compliance constituting the most recent inspection by the local fire marshal or state-approved fire inspection service on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:278 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:914 (May 2018).

#### **§5709. Housing of Stable Employees**

A. Each association shall provide adequate and sanitary living quarters with proper sanitary arrangements, and ample and convenient toilet facilities for stable employees, and shall provide in its stable area at least 1 tack room of a minimum area of 100 square feet for every 6 horses stabled, with adequate facilities for housing personnel therein.

B. The living quarters shall comply with all state and local building and fire codes associated with the housing of people.

C. Dependent upon the season of the race meet, the association may also be required by the commission to have heating and air conditioning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:278 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:914 (May 2018).

#### **§5710. Tack Room**

A. Each association shall provide in its stable area at least 1 tack room of a minimum area of 100 square feet for every 6 horses stabled, with adequate facilities for housing personnel therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:914 (May 2018).

#### **§5713. Ambulance**

A. Each association shall provide one ambulance during its training and racing hours. During such time, the ambulance shall be ready for duty, properly equipped to

provide emergency medical services, including equipment and a registered paramedic and a certified emergency medical technician, and shall have immediate access to the racing strip. If the ambulance is being used to transport an individual, the association shall not conduct a race, or allow horses with riders on the racetrack until the ambulance is replaced.

B. Unless otherwise approved by the commission or the stewards, an ambulance shall follow the field at a safe distance during the running of races.

C. The ambulance shall be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual or when it is following the field during the running of a race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 9:546 (August 1983), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:914 (May 2018).

#### **§5714. Equine Ambulance**

A. An association shall provide an equine ambulance staffed by trained personnel on association grounds on each day that the racetrack is open for racing or training.

B. The ambulance shall be properly ventilated and kept at an entrance to the racetrack when not in use.

C. The ambulance shall be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress and transport a horse off of the racetrack and association grounds.

D. The ambulance shall be equipped with:

1. large, portable screens to shield a horse from public view;
2. ramps to facilitate loading a horse;
3. adequate means of loading a horse that is down;
4. a padded interior; and
5. a movable partition to initially provide more room to load a horse and to later restrict a horse's movement.

E. An association shall not conduct a race unless an equine ambulance or an official state veterinarian-approved substitute is readily available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:914 (May 2018).

#### **§5723. Lighting**

A. The stable area must be properly lighted, so that it will be entirely void of darkness in any section. Lights will be turned on at dusk and they shall remain on until one hour after the last race. Lights shall not be turned on or off while the horses are on the track.

B. An association shall provide lighting for the patron facilities that is adequate to ensure the safety and security of the patrons and licensees.

C. If an association conducts racing at night, the association shall maintain an emergency back-up lighting system on the racetrack proper to allow for the safety of the horses and related personnel during the race.

D. This Rule is not meant to supersede any state laws or local ordinances applicable to any individual licensed association.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:148.

**HISTORICAL NOTE:** Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:278 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:914 (May 2018).

**§5724. Rails**

A. Racetracks, including turf tracks, shall have inside and outside rails, including gap rails, designed, constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the commission prior to the first race meeting at the track.

B. The top of the inside rail must be at least 38 inches, but not more than 50 inches above the top of the cushion.

C. The top of the outside rail must be at least 34 inches, but not more than 50 inches above the top of the cushion. Any outside rails modified or installed after the adoption of these rules shall be at least 38 inches, but not more than 50 inches above the top of the cushion.

D. The inside dirt race/running rail may have an overhang of no less than 24 inches with a continuous smooth cover of material designed to withstand the impact of a horse and rider.

E. All race/running rails should be constructed of materials designed to withstand the impact of a horse and rider running at a gallop, with structural integrity, free of cracks, breaks, splinters and shall not contain any exposed sharp edges.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:148.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:915 (May 2018).

**§5764. Surface of Race Course**

A. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed, and maintained to provide for the safety of the jockeys and horses.

B. An association shall provide an adequate drainage system for the racetrack and turf course.

C. An association shall maintain the track surface in a safe training and racing condition.

D. An association that conducts races on a turf track shall provide a system capable of adequately watering the entire turf course evenly.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:148.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:915 (May 2018).

Charles A. Gardiner III  
Executive Director

1805#020

**RULE**

**Office of the Governor  
Division of Administration  
Racing Commission**

**Jockey Fee Schedule (LAC 46:XLI.725)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has amended LAC 46:XLI.725. The Rule change is two-fold. The first change is clerical; it clarifies the purse amount categories that were incomplete. The second is an increase in the fee for jockeys who are unplaced (third place finish or worse) in races with purses of \$3,500 and higher by an additional \$5. To keep the fee schedule consistent, jockeys who place third in the two-purse categories of \$5,000 to \$9,999 and \$10,000 to \$14,999, will also receive an additional \$5. This Rule is hereby adopted on the day of promulgation.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLI. Horseracing Occupations**

**Chapter 7. Jockeys and Apprentice Jockeys**

**§725. Jockey Fee Schedule**

A. Prior to the start of each race conducted by an association licensed by the commission, sufficient money shall be on deposit with the horsemen's bookkeeper in an amount equal to pay the losing mount fee of a jockey for that race. In the absence of a special agreement, the fee of a jockey shall be as follows.

Purse	Win	Second	Third	Unplaced
\$499 and under	\$27	\$19	\$17	\$16
500-599	30	20	17	16
600-699	36	22	17	16
700-999	10%	25	22	20
1,000-1,499	10%	30	25	22
1,500-1,999	10%	35	30	28
2,000-3,499	10%	45	35	33
3,500-4,999	10%	70	60	55
5,000-9,999	10%	80	70	65
10,000-14,999	10%	5%	75	70
15,000-24,999	10%	5%	5%	75
25,000-49,999	10%	5%	5%	80
50,000-99,999	10%	5%	5%	95
100,000 and up	10%	5%	5%	120

B. Failure, refusal and/or neglect of a trainer to timely deposit or have deposited the aforesaid jockey fee for a horse entered to race, on or before the time specified herein, shall be a violation of this Section. Each such violation shall be punishable by a fine of not less than \$200 and the failure to pay such fine within 48 hours of imposition thereof shall be grounds for suspension. Additionally, an amount equal to the jockey fee actually earned by the jockey in accordance with the aforesaid schedule shall be paid to the jockey earning same within 48 hours of the imposition of the aforesaid fine, and failure to pay said jockey fee within the

time specified herein shall be an additional grounds for suspension.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

**HISTORICAL NOTE:** Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), amended LR 3:28 (January 1977), LR 4:276 (August 1978), LR 5:23 (February 1979), LR 12:12 (January 1986), amended by the Department of Economic Development, Racing Commission, LR 16:112 (February 1990), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 35:2756 (December 2009), LR 44:915 (May 2018).

Charles A. Gardiner III  
Executive Director

1805#039

## **RULE**

### **Office of the Governor Division of Administration Racing Commission**

Resale; Movement (LAC 35:XI.9909)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission formally amends LAC 35:XI.9909. The Rule removes the restriction on claimed horses by allowing them to enter and run at any licensed racetrack after the close of entries for the last racing day at the meet during which it was claimed. The Rule, prior to amending, prohibited claimed horses from entering and running until the completion of the last racing day at the meet at which it was claimed. This Rule is hereby adopted on the day of promulgation.

#### **Title 35**

#### **HORSE RACING**

#### **Part XI. Claiming Rules and Engagements**

#### **Chapter 99. Claiming Rule**

#### **§9909. Resale; Movement**

A. If a horse is claimed, it shall not be sold or transferred to anyone wholly or in part, except in a selling or claiming race, for a period of 30 days from date of claim, nor shall it, unless reclaimed, remain in the same stable or under the control of management of its former owner or trainer for a like period, nor shall it race in any other state until after the close of entries of the meeting at which it was claimed, unless special permission is obtained from the commission. However, a horse claimed at a track in Louisiana must remain at the track where it was claimed for a period of 60 calendar days or until after the close of entries of the meeting at which it was claimed. Where a race meeting is authorized and conducted as a split-meeting, a horse claimed in such a race meeting must remain at the track where it was claimed for a period of 60 calendar days or until after the close of entries of that segment of the split meeting at which it was claimed. The following calendar day shall be the first day and the horse shall be entitled to enter at another track in the state whenever necessary so the horse may start on the sixty-first day following the claim.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

**HISTORICAL NOTE:** Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), amended LR 3:42 (January 1977), LR 4:285 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 17:878 (September 1991), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:916 (May 2018).

Charles A. Gardiner III  
Executive Director

1805#038

## **RULE**

### **Office of the Governor Division of Administration Racing Commission**

Timing of Entering Next Claiming Race  
(LAC 35:XI.9905)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has amended LAC 35:XI.9905. The amendment will make the eligibility requirements following a horse being claimed less restrictive for the last 10 days of the 30-day period following a claim. The first 20 days will remain the same as the current Rule. The following 10 days, the horse is eligible to run back for the same claiming price or higher. This Rule is hereby adopted on the day of promulgation.

#### **Title 35**

#### **HORSE RACING**

#### **Part XI. Claiming Rules and Engagements**

#### **Chapter 99. Claiming Rule**

#### **§9905. Timing of Entering Next Claiming Race**

A. Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 20 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. For a period of 10 days thereafter, a horse is eligible to run back for the same claiming price or higher. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the thirty-first day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 30:1476 (July 2004), amended LR 33:2422 (November 2007), LR 41:1673 (September 2015), LR 44:916 (May 2018).

Charles A. Gardiner III  
Executive Director

1805#037

**RULE**

**Office of the Governor  
Division of Administration  
Tax Commission**

**Ad Valorem Taxation (LAC 61:V.907 and 2503)**

Editor's Note: This Rule is being repromulgated to correct typographical errors. The original Rule can be viewed in its entirety on pages 577-585 of the March 20, 2018 edition of the *Louisiana Register*.

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has adopted, amended and/or repealed Sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 2018 (2019 Orleans Parish) tax year. This Rule is hereby adopted on the day of promulgation.

**Title 61**

**REVENUE AND TAXATION**

**Part V. Ad Valorem Taxation**

**Chapter 9. Oil and Gas Properties**

**§907. Valuation of Oil, Gas, and Other Wells**

A. - A.7. ...

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

<b>Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana</b>				
<b>Producing Depths</b>	<b>Cost—New By Depth, Per Foot</b>		<b>15% of Cost—New By Depth, Per Foot</b>	
	<b>\$ Oil</b>	<b>\$ Gas</b>	<b>\$ Oil</b>	<b>\$ Gas</b>
0-1,249 ft.	36.69	128.43	5.50	19.26
1,250-2,499 ft.	33.13	94.43	4.97	14.16
2,500-3,749 ft.	26.04	62.54	3.91	9.38
3,750-4,999 ft.	36.02	62.32	5.40	9.35
5,000-7,499 ft.	42.35	60.83	6.35	9.12
7,500-9,999 ft.	92.84	81.99	13.93	12.30
10,000-12,499 ft.	270.73	99.46	40.61	14.92
12,500-14,999 ft.	440.29	150.18	66.04	22.53
15,000-17,499 ft.	563.53	171.25	84.53	25.69
17,500-Deeper ft.	N/A	479.02	N/A	71.85

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

<b>Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana</b>				
<b>Producing Depths</b>	<b>Cost—New By Depth, Per Foot</b>		<b>15% of Cost—New By Depth, Per Foot</b>	
	<b>\$ Oil</b>	<b>\$ Gas</b>	<b>\$ Oil</b>	<b>\$ Gas</b>
0-1,249 ft.	282.13	127.59	42.32	19.14
1,250-2,499 ft.	97.43	212.06	14.61	31.81
2,500-3,749 ft.	95.14	169.07	14.27	25.36
3,750-4,999 ft.	83.86	135.25	12.58	20.29
5,000-7,499 ft.	114.57	153.64	17.19	23.05
7,500-9,999 ft.	156.29	160.86	23.44	24.13
10,000-12,499 ft.	213.12	210.27	31.97	31.54
12,500-14,999 ft.	279.57	272.02	41.94	40.80
15,000-17,499 ft.	452.85	364.21	67.93	54.63
17,500-19,999 ft.	552.92	515.88	82.94	77.38
20,000-Deeper ft.	295.24	774.50	44.29	116.18

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

<b>Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*</b>				
<b>Producing Depths</b>	<b>Cost—New By Depth, Per Foot</b>		<b>15% of Cost—New By Depth, Per Foot</b>	
	<b>\$ Oil</b>	<b>\$ Gas</b>	<b>\$ Oil</b>	<b>\$ Gas</b>
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,414.25	1,033.39	212.14	155.01
2,500 -3,749 ft.	727.23	794.20	109.08	119.13
3,750 -4,999 ft.	1,038.04	728.24	155.71	109.24
5,000 -7,499 ft.	516.58	674.51	77.49	101.18
7,500 -9,999 ft.	654.92	638.29	98.24	95.74
10,000 -12,499 ft.	741.43	646.99	111.21	97.05
12,500 -14,999 ft.	644.83	629.65	96.72	94.45
15,000 -17,499 ft.	444.44	653.32	66.67	98.00
17,500 - 19,999 ft.	221.38	624.59	33.21	93.69
20,000 - Deeper ft.	N/A	981.79	N/A	147.27

B. The determination of whether a well is a region 2 or region 3 well is ascertained from its onshore/offshore status as designated on the permit to drill or amended permit to drill form (location of wells section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the permit to drill or amended permit to drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

<b>Table 907.B.1 Parishes Considered to be Located in Region 1</b>			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

<b>Table 907.B.2 Serial Number to Percent Good Conversion Chart</b>			
<b>Year</b>	<b>Beginning Serial Number</b>	<b>Ending Serial Number</b>	<b>20 Year Life Percent Good</b>
2017	249951	Higher	97
2016	249476	249950	93
2015	248832	249475	90
2014	247423	248831	86
2013	245849	247422	82
2012	244268	245848	78
2011	242592	244267	74
2010	240636	242591	70
2009	239277	240635	65
2008	236927	239276	60
2007	234780	236926	55
2006	232639	234779	50
2005	230643	232638	45
2004	229010	230642	40
2003	227742	229009	35
2002	226717	227741	31

Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2001	225352	226716	27
2000	223899	225351	24
1999	222882	223898	22
1998	221596	222881	21
1997	Lower	221595	20 *
VAR.	900000	Higher	50

\*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

C. - C.6. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013). LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:653 (April 2017), LR 44:580 (March 2018), repromulgated LR 44:917 (May 2018).

**Chapter 25. General Business Assets**

**§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property**

A. - A.1. ...

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B. Cost Indices

Year	Age	National Average 1926 = 100	January 1, 2017 = 100*
2017	1	1612.2	0.990
2016	2	1580.9	1.010
2015	3	1593.7	1.002
2014	4	1578.8	1.011
2013	5	1558.7	1.024
2012	6	1545.9	1.032
2011	7	1503.2	1.062
2010	8	1457.4	1.095
2009	9	1468.6	1.087
2008	10	1427.3	1.118
2007	11	1373.3	1.162

Year	Age	National Average 1926 = 100	January 1, 2017 = 100*
2006	12	1302.3	1.226
2005	13	1244.5	1.283
2004	14	1157.3	1.379
2003	15	1118.6	1.427
2002	16	1100.0	1.451
2001	17	1093.4	1.460
2000	18	1084.3	1.472
1999	19	1065.0	1.499
1998	20	1061.8	1.503
1997	21	1052.7	1.516
1996	22	1036.0	1.541
1995	23	1020.4	1.564
1994	24	985.0	1.620
1993	25	958.0	1.666
1992	26	939.8	1.698
1991	27	928.5	1.719
1990	28	910.2	1.754
1989	29	886.5	1.800
1988	30	841.4	1.897
1987	31	806.9	1.978

\*Reappraisal Date: January 1, 2017 – 1596.1 (Base Year)

C. ...

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D. Composite Multipliers 2018 (2019 Orleans Parish)

Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
1	.69	.84	.86	.89	.91	.93	.94	.96	.97	.97
2	.49	.70	.74	.80	.85	.88	.91	.94	.96	.96
3	.34	.52	.57	.67	.76	.80	.85	.90	.93	.95
4	.16	.34	.41	.55	.68	.74	.80	.87	.91	.94
5		.24	.31	.44	.59	.68	.75	.84	.89	.93
6		.19	.20	.34	.51	.60	.70	.80	.87	.92
7			.19	.28	.41	.53	.66	.79	.86	.91
8				.24	.33	.47	.60	.77	.85	.90
9				.22	.26	.39	.53	.71	.82	.89
10					.23	.32	.48	.67	.79	.88
11					.23	.28	.43	.64	.79	.88
12						.27	.38	.61	.78	.87
13						.26	.33	.58	.77	.87
14							.32	.55	.77	.86
15							.30	.50	.74	.86
16							.29	.45	.70	.86
17								.39	.64	.85
18								.35	.57	.79
19								.33	.51	.76
20								.32	.45	.71
21								.30	.42	.67
22									.40	.62
23									.38	.58
24									.32	.55
25									.31	.52
26									.30	.48
27										.45
28										.40
29										.38
30										.38
31										.37

1. Data sources for tables are:
  - a. Cost Index—Marshall and Swift Publication Co.;
  - b. Percent Good—Marshall and Swift Publication Co.;
  - c. Average Economic Life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:681 (April 2015), LR 42:750 (May 2016), LR 43:656 (April 2017), LR 44:580 (March 2018), repromulgated LR 44:918 (May 2018).

Lawrence E. Chehardy  
Chairman

1805#022

## RULE

### Department of Health Board of Nursing

#### Alternative to Disciplinary Proceedings (LAC 46:XLVII.3419)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, the Louisiana State Board of Nursing (LSBN) has made rule changes to Chapter 34, Section 3419, Subsection A, Subparagraph 1 and Chapter 34, Section 3419, Subsection D, Subparagraph 3, admission criteria, Subparagraphs i-j under Title 46, Professional and Occupational Standards, Part XLVII. One change updated the terminology. The medical term has changed from chemical dependency to substance use disorder, mild, moderate or severe according to the *Diagnostic and Statistical Manual of Mental Disorders Fifth Edition (DSM 5)* edited and published by the American Psychiatric Association in 2013. The other change has corrected a factual error. The factual error that has been corrected is as follows: “No substitution of narcotic medications destined for patients for the purpose of diversion” will be removed from the *Louisiana Administrative Code* since suboxone, an opioid medication, is used to treat narcotic (opiate) addiction. Chapter 34, Section 3419 offers an alternative to disciplinary proceedings for nurses. The Recovering Nurse Program (RNP) was established to assist registered nurses or

student nurses who have demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition, so that such nurses or student nurses can be treated and return to the practice of nursing in a manner which will not endanger the public health, safety and welfare. This Rule is hereby adopted on the day of promulgation.

## Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses: Practical Nurses and Registered Nurses

##### Subpart 2. Registered Nurses

#### Chapter 34. Disciplinary Proceedings: Alternative to Disciplinary Proceedings

##### §3419. Alternative to Disciplinary Proceedings

A. - A.1. ...

2. In addition to being an alternative to disciplinary action, the RNP accepts individuals who have been diagnosed with a physical, and/or mental impairment, or substance use disorder and who have disciplinary action ordered by the board.

B. - B.7. ...

C. Operational Definitions

*Board*—the Louisiana State Board of Nursing.

*Compliance*—conformity in fulfilling the Recovering Nurse Program agreement.

*Confidentiality*—all records of a nurse or student nurse who has successfully completed or is in the non-disciplinary alternative program shall not be subject to public disclosure, and shall not be available for discovery proceedings except as required by federal and state confidentiality laws and regulations. The records of a nurse or student nurse who fails to comply with the program agreement or who leaves the program without enrolling in an alternative program in the state to which the nurse moves, or who subsequently violates the Nurse Practice Act or the rules of the board, shall not be deemed confidential except for those records protected by federal and state confidentiality laws and regulations.

*Impaired Nurse*—a registered nurse or student nurse who has demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs; or has demonstrated inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition.

*Impairment*—problems associated with the actual or potential inability to practice nursing with reasonable skill and safety to individuals because of the use of alcohol or drugs; or inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition.

*Non-Compliance*—failure to conform with the stipulations of the RNP agreement.

*Recovering Nurse Program (RNP)*—a program established by the board to identify and assist registered nurses, registered nurse applicants and student nurses whose capacity to practice nursing with reasonable skill and safety



to patients has been, or may potentially be, compromised because of use of alcohol or drugs, or because of illness or as a result of any mental or physical condition.

*Relapse*—the use of a mind or mood altering chemical when total abstinence from all mind- or mood-altering chemicals has been directed.

*Student Nurse*—an individual who is enrolled in a Louisiana State Board of Nursing-approved program preparing for licensure as a registered nurse.

D. - D.3.d. ...

e. has no criminal convictions or pending criminal charge pertaining to any crime of violence or other crime referenced in LAC 46:XLVII.3331.A, any crime that involves the distribution of drugs, and/or any crime that demonstrates a lack of fitness to practice nursing;

f. - h. ...

i. no related nursing problems involving death or significant harm to patient;

j. agrees to comply with all RNP stipulations and signs program agreement including statement of admission of substance use disorder or other impairment.

E. - E.6.d. ...

F. Admission and Progression. The following procedures shall apply to RNP participants.

1. For nurses who have met criteria in §3419.D and have entered the program confidentially with no disciplinary action will upon entry:

a. sign RNP agreement for five years for substance use disorders. Agreements to rule out substance use disorder or medical, mental or physical agreements may be of shorter duration depending on treatment team recommendations;

b. refrain from the practice of nursing until approved by RNP;

c. complete and submit to the board a comprehensive inpatient evaluation and treatment as recommended from a board recognized treatment facility. Admission shall be within 10 days unless otherwise approved by RNP or board's professional staff;

1.d. - 2.a. ...

b. complete a relapse evaluation as directed by RNP staff. Participants must follow all treatment recommendations. Admission shall be within 10 days unless otherwise approved by RNP;

2.c. - 3.b.iii. ...

iv. board hearing or consent order will be required prior to reinstatement;

v. submit fine/costs as imposed.

4. A third relapse/non-compliance will result in an automatic suspension for a minimum of two years and show cause order for revocation.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 27:728 (May 2001), LR 31:1586 (July 2005), LR 35:1535 (August 2009), LR 36:1244 (June 2010), LR 37:3025 (October 2011), amended by the Department of Health, Board of Nursing, LR 44:919 (May 2018).

Dr. Karen C. Lyon, E.D.  
Executive Director

1805#006

## RULE

### Department of Health Bureau of Health Services Financing

#### Medicaid Provider Screening Application Fee (LAC 50:I.1501)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.1501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. Administration

#### Subpart 1. General Provisions

#### Chapter 15. Provider Screening and Enrollment

#### §1501. General Provisions

A. - F.4. ...

G. Provider Screening Application Fee

1. In compliance with the requirements of the Affordable Care Act and 42 CFR 455.460, the department shall collect an application fee for provider screening prior to executing provider agreements from prospective or re-enrolling providers other than:

a. individual physicians or non-physician practitioners; and

b. providers who:

i. are enrolled in title XVIII of the Social Security Act;

ii. are enrolled in another state's title XIX or XXI plan; or

iii. have paid the applicable application fee to a Medicare contractor or another state.

2. The department shall return the portion of all fees collected which exceed the cost of the screening to CMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 39:1051 (April 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 44:920 (May 2018).

Rebekah E. Gee MD, MPH  
Secretary

1805#044

## RULE

### Department of Health Bureau of Health Services Financing

#### Professional Services Program Reimbursement Methodology Supplemental Payments (LAC 50:IX.15151 and 15153)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:IX.15151 and §15153 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This

Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part IX. Professional Services Program**

**Subpart 15. Reimbursement**

**Chapter 151. Reimbursement Methodology**

**Subchapter F. Supplemental Payments**

**§15151. State-Owned or Operated Professional Services Practices**

A. Qualifying Criteria. Effective for dates of service on or after February 21, 2017, in order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

- 1. - 2. ...
- 3. employed by, or under contract to provide services in affiliation with, a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:

a. has been designated by the department as an essential provider. Essential providers include:

- a.i. - b. ...

B. Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

- 1. - 3. ...
- 4. certified nurse anesthetists; and
- 5. dentists.
- 6. - 21. Repealed.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:544 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1390 (July 2017), LR 44:921 (May 2018).

**§15153. Non-State-Owned or Operated Professional Services Practices**

A. Qualifying Criteria. Effective for dates of service on or after February 21, 2017, in order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

- 1. - 2. ...
- 3. employed by, or under contract to provide services at a non-state owned or operated governmental entity and identified by the non-state owned or operated governmental entity as a physician that is employed by, or under contract to provide services at or in affiliation with said entity.

B. Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

- 1. - 2. ...
- 3. certified registered nurse practitioners; and
- 4. certified nurse anesthetists.
- 5. - 21. Repealed.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:544 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1390 (July 2017), LR 44:921 (May 2018).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH  
Secretary

1805#045

**RULE**

**Department of Public Safety and Corrections  
Office of State Police**

Federal Motor Carrier Safety and Hazardous Materials  
(LAC 33:V.10303)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 32:1501 et seq., has amended its rules regulating motor carrier safety and hazardous materials by updating the revision date of the adopted federal motor carrier regulations to January 1, 2018. This Rule is hereby adopted on the day of promulgation.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Wastes and Hazardous Materials**

**Subpart 2. Department of Public Safety and Corrections—Hazardous Materials**

**Chapter 103. Motor Carrier Safety and Hazardous Materials**

**§10303. Federal Motor Carrier Safety and Hazardous Materials**

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of January 1, 2018, and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

<b>Hazardous Material Regulations</b>	
Part 107	Hazardous Materials Program Procedures
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	Shippers—General Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings

<b>Motor Carrier Safety Regulations</b>	
Part 355	Compatibility of State Laws and Regulations Affecting Interstate Motor Carrier Operations
Part 360	Fees for Motor Carrier Registration and Insurance
Part 365	Rules Governing Applications for Operating Authority
Part 367	Standards for Registration with States
Part 373	Receipts and Bills

<b>Motor Carrier Safety Regulations</b>	
Part 374	Passenger Carrier Regulations
Part 375	Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations
Part 376	Lease and Interchange of Vehicles
Part 379	Preservation of Records
Part 382	Controlled Substances and Alcohol Use and Testing
Part 383	Commercial Driver's License Standards; Requirements and Penalties
Part 384	State Compliance with Commercial Driver's License Program
Part 385	Safety Fitness Procedures
Part 386	Rules of Practice for Motor Carrier, Broker, Freight Forwarder and Hazardous Materials Proceedings
Part 387	Minimum Levels of Financial Responsibility for Motor Carriers
Part 388	Cooperative Agreements with States
Part 389	Rulemaking Procedures-Federal Motor Carrier Safety
Part 390	Federal Motor Carrier Safety Regulations; General
Part 391	Qualifications of Drivers
Part 392	Driving of Commercial Motor Vehicles
Part 393	Parts and Accessories Necessary for Safe Operation
Part 395	Hours of Service of Drivers
Part 396	Inspection, Repair, and Maintenance
Part 397	Transportation of Hazardous Materials; Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998), LR 24:2321 (December 1998), LR 29:711 (May 2003), LR 30:447 (March 2004), LR 32:641 (April 2006), LR 34:882 (May 2008), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 37:1613 (June 2011), LR 38:1417 (June 2012), amended by the Department of Public Safety and Corrections, Office of State Police, LR 40:371 (February 2014), LR 42:280 (February 2016), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 43:537 (March 2017), amended by the Department of Public Safety and Corrections, Office of State Police, LR 44:921 (May 2018).

Jason Starnes  
Chief Administrative Officer

1805#016

## **RULE**

### **Department of Transportation and Development Office of Multimodal Commerce**

#### **State Safety Oversight for Rail Fixed Guideway Public Transportation Systems (LAC 70:IX.Chapter 15)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 48:214, that the Department of Transportation and Development, Office of Multimodal Commerce, State Safety Oversight Division hereby enacts State Safety Oversight for Rail Fixed Guideway Public Transportation Systems. The new rule is the state safety oversight program standard (SSOPS) required by 49 CFR Part 674, published by the Federal Transit Administration (FTA), to oversee the implementation of the safety plan of any rail transit agency (RTA) operating

a rail fixed guideway public transportation system (RFGPTS) in the state of Louisiana.

## **Title 70**

### **TRANSPORTATION**

#### **Part IX. Intermodal Transportation**

#### **Chapter 15. State Safety Oversight for Rail Fixed Guideway Public Transportation Systems**

##### **§1501. Introduction**

A. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), signed on December 18, 1991, required the Federal Transit Administration (FTA) to create a first-ever State-managed safety and security oversight program for rail fixed guideway public transportation systems (RFGPTS) not regulated by the Federal Railroad Administration. In each successive Act following ISTEA, including the Transportation Equity Act for the 21st Century (TEA-21), signed on June 9, 1998, and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), signed on August 10, 2005, the state safety oversight (SSO) program was continued, setting the stage for the safety and programmatic advances required under the Moving Ahead for Progress in the 21st Century Act (MAP-21) signed July 6, 2012 and continued under the Fixing America's Surface Transportation Act (FAST Act), signed on December 4, 2015.

B. On March 16, 2016, FTA issued the 49 CFR Part 674 final rule. This rule reflects the requirements of 49 U.S.C. section 5329(e), and directs states to strengthen their authorities to oversee and enforce safety requirements and to prevent and mitigate accidents on the RFGPTS in their jurisdictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:922 (May 2018).

##### **§1503. Program Management**

A. Authority. The State of Louisiana re-designated the Louisiana Department of Transportation and Development (LADOTD) as the state safety oversight agency (SSOA) for Louisiana in 2014. This enabling authority is found at Louisiana Revised Statute 48:214. The SSOA authority applies to any Rail Transit Agency (RTA) operating a RFGPTS in Louisiana. References to the RTA or RFGPTS do not apply to one specific RTA, but to any RTA operating in Louisiana.

NOTE: The New Orleans Regional Transit Authority is the only RTA/RFGPTS currently subject to oversight in the State of Louisiana.

B. Policies That Govern SSOA Activities. The SSO program is administered by the state safety oversight program manager. The program manager is responsible for carrying out the policies enumerated in the state safety oversight program standard (SSOPS) and the specific activities and objectives provided in the procedures manual. The SSOA program is currently administered through the Office of Multimodal Commerce at the LADOTD and supported by the commissioner of multimodal commerce, the deputy commissioner of multimodal commerce, and the freight and passenger rail development statewide program manager. The SSOA program manager and any staff or

contractors will meet the training requirements of the public transportation safety certification training program.

C. SSOA Reporting Requirements. On or before March 15th of each year, the SSOA will submit the following material to the Louisiana Governor's Office, the RTA Board of Commissioners, and the FTA:

1. the SSOPS and the accompanying procedures manual, with an indication of any changes to those documents during the preceding 12 months;

2. evidence that each of its employees and contractors has completed the requirements of the public transportation safety certification training program, or, if in progress, the anticipated completion date of the training;

3. a publicly available report that summarizes its oversight activities for the preceding 12 months, describes the causal factors of accidents identified through investigation, and identifies the status of corrective actions, changes to the RTA safety plan, and the level of effort by the SSOA in carrying out its oversight activities;

4. a summary of the triennial audits completed during the preceding 12 months, and the RTAs' progress in carrying out corrective action plans (CAP) arising from triennial audits (if conducted);

5. evidence that the SSOA has reviewed and approved any changes to the RTA safety plan during the preceding 12 months; and

6. a certification that the SSOA is in compliance with the requirements 49 CFR Part 674.

D. RTA Reporting Requirements. On or before February 15th of each year, the RTA will submit the following material in a report to the SSOA:

1. the safety plan, with an indication of any changes to that document during the preceding 12 months;

2. a report on all internal safety audits performed during the preceding calendar year to include, a listing of the internal safety audits conducted the previous calendar year, an updated schedule for audits that will be conducted in the current three-year cycle, and a status of all findings, recommendations and corrective actions resulting from the audits conducted the previous calendar year;

3. a report listing all reportable accidents and unacceptable hazards identified during the previous 12-month period that describes any causal factors identified through investigation, and identifies the status of corrective actions;

4. a certification that the RTA is in compliance with this SSOPS and any federal rules applicable to its safety plan.

E. SSOA and RTA Communications. The SSOA will maintain on-going communications with the RTA regarding safety related aspects of the RFGPTS. To facilitate communications, the SSOA will attend monthly meetings to discuss the status of accident/incident/event investigations, open CAPs, identified unacceptable hazards, and other safety related topics. In addition, the SSOA will participate in safety related training and other events and will conduct on-site inspections. The inspections may include, but not be limited to; reviewing and approving accident investigation procedures and reports; reviewing monthly construction reports, as appropriate; and collecting and reviewing other data as leading indicators of safety related events to identify mitigation measures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:922 (May 2018).

#### **§1505. SSOPS Development**

A. This SSOPS was developed in compliance with 49 CFR Part 674 and aspects of the previous Louisiana State Standard developed under 49 CFR Part 659. This SSOPS is a policy document and is hereby adopted into Louisiana Administrative Code: Title 70 Part IX.Chapter 15. This SSOPS, along with Louisiana Revised Statutes 48:214, give the SSOA the necessary authority to administer the enhanced oversight of RFGPTS in Louisiana as envisioned in 49 CFR Part 674. An accompanying procedures manual has been created to address changes in industry standards, safety related guidance from FTA, and general procedural or administrative changes to standard operating practices between the SSOA and RTA. The creation of the procedures manual reduces the legislative and administrative burden on the SSOA.

B. Review and Revision. The SSOPS policy document and procedures manual are reviewed at least annually. Any changes to either document are submitted to FTA (and as appropriate to the RTA) for review with the annual report by March 15th of each year. Additionally, changes in procedures may be addressed at any time as needed.

C. Minimum Safety Standards. The SSOPS policy document, along with the Louisiana Revised Statutes 48:214, provides the SSOA the necessary authority to develop any rules and/or regulations necessary to enforce minimum safety standards of operation by RFGPTS operators in the state of Louisiana. Much like FTA's public transportation safety program does not outline those minimum standards, but does so in the national public transportation safety plan, this policy document requires all Louisiana RTA's to meet or exceed any nationally recognized safety standards for operating rail fixed guideway public transportation systems. The SSOA procedures manual will contain any minimum safety standards deemed necessary beyond those developed by the RTA to facilitate safe operations or published by the FTA in the national public transportation safety plan or those developed by industry recognized leaders such as the American Public Transportation Association (APTA), etc. The SSOA will provide written notice of updates posted in the procedures manual and all Louisiana RTA's will be required to adhere to those rules and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:923 (May 2018).

#### **§1507. Program Policy and Objectives**

A. The SSOA provides oversight and technical assistance to the RTA and evaluates the effectiveness of that agency's safety plan implementation. Through participation in safety meetings, reviewing investigations of accidents/incidents/events, the SSOA will provide guidance and input to the RTA safety implementation program, which is wholly owned by and implemented by the RTA. In addition to the SSOA program policy stated in this section, the SSOA has specific objectives associated with the program's

implementation that will be listed in the procedures manual. Those objectives may change based on specific oversight needs for an RTA, industry standards revisions, or guidance from FTA. The program objectives will be reviewed annually and updated as appropriate in the procedures manual. The SSOA is responsible for investigating any allegations of a RTAs non-compliance with its agency safety plan. To assist in the effectiveness of the SSOA mission, the RTA will grant full access to fixed guideway safety related records, personnel, and facilities at the RTA. If, during the course of inspections, observations, analysis, interviews or other SSOA activities, potential unacceptable hazardous conditions are identified, the SSOA will discuss the concerns directly with RTA safety staff and management and may require development of a corrective action plan. These risk-related concerns will typically find resolution at this level of discussion and interaction. If the situation is an immediate safety risk, the RTA is directed to implement any necessary action to mitigate that risk with proper and timely notification to the SSOA. In addition, the SSOA will work closely with the RTA to monitor issue resolution to assure the corrective action does not create unintended risks. If the SSOA identifies and communicates potential unacceptable hazardous conditions to the RTA staff as indicated above, and either the corrective action or the timeliness of the action is not acceptable to the SSOA, the following escalation protocols will be implemented.

1. Escalation Level I. If after an appropriate period of time, determined in writing by the SSOA, a similar pattern of risk related activity, previously communicated to the RTA, is observed, a formal letter will be sent to the RTA safety management system (SMS) executive/lead. The letter will describe the risk concerns with a formal request to respond to the letter with an explanation of how the RTA plans to address the identified concerns. If the explanation from the RTA is reasonable/acceptable, the concerns and responses are documented and the SSOA will continue risk monitoring. If the RTA determines that the identified risk concern needs additional attention, the SSOA will require the RTA to develop an appropriate corrective action plan.

2. Escalation Level II. The Louisiana Revised Statutes 48:214 provides direction to each RTA regarding the requirement for a formal safety program and requires the SSOA to, "Direct the operator of a fixed guideway rail system to correct a safety hazard by a specified date and time." If the RTA does not comply with direction stemming from Escalation Level I, a formal letter from the commissioner of multi-modal commerce to the RTA Accountable Executive reiterating the risk concerns with a request to respond to the letter including an explanation of how the RTA plans to address the identified concerns. If the explanations from the RTA are reasonable/acceptable and a reasonable timetable established, the concerns and responses are documented and the SSOA will continue risk monitoring. If the RTA determines that the identified risk concern needs additional attention, the SSOA will require the RTA to develop an appropriate corrective action plan.

3. Escalation Level III. If at any time during Escalation Level II, the identified risk concerns cannot be resolved due to a lack of communication or responsiveness from the RTA, the Statute requires that the SSOA, "Take legal action in a court of competent jurisdiction to compel an

operator of a fixed guideway rail system to correct a safety hazard, or to prevent the operation of all or part of a fixed guideway rail system that the office has determined to be unsafe."

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:923 (May 2018).

### **§1509. Oversight of RTA Safety Plans and Internal Safety Reviews**

A. RTA Safety Plan Review. The RTA is required to develop and submit a safety plan to the SSOA for its review and written approval. The safety plan must be compliant with the SSOPS, any federal rules (i.e. 49 U.S.C. 5329(d)) specifically addressing RTA safety plans, any specific guidance found in the SSOA procedures manual, and other guidance provided through FTAs national public transportation safety plan. The SSOA may require changes to safety plan based on changes in federal or state requirements, audit results, inspections, investigations, or findings based on safety data analysis. After written notification from the SSOA for safety plan modifications, the RTA and SSOA will determine a reasonable timeline for completing the revision(s). The RTA must assess its safety plan annually and revise it as needed to reflect changes in the organization, procedures, equipment, facilities, and operating environment. The RTA must submit any revisions to the SSOA to ensure compliance with the SSOPS. The SSOA will complete a compliance review of the safety plan within 30 calendar days of receipt, or notify the RTA if additional time is needed. If the RTA safety plan complies with the SSOPS and other guidance as necessary, the SSOA will issue a written approval of the safety plan (along with appropriate checklists) and request that the RTA send a final copy of the safety plan with appropriate signatures and other endorsements as required. The safety plan and any revisions to the safety plan must be approved by the RTA Board of Commissioners and signed by a designee of the RTA Board of Commissioners. The approved RTA safety plan remains in effect until another such safety plan or revisions to the existing safety plan is/are submitted and approved in accordance with this SSOPS. If the SSOA determines that the submitted safety plan does not meet the requirements of the SSOPS or other appropriate guidance, a written rejection of the safety plan will be sent to the RTA along with a description (comments and appropriate checklists) of necessary changes to gain approval. The RTA will make such changes in an expeditious manner, unless otherwise specified in the rejection letter. The RTA may request a meeting with the SSOA to discuss the safety plan review comments. In the event the RTA objects to a noted deficiency or requested change from the SSOA, a written notice of the objections and suggested alternatives will be provided to the SSOA within 30 days. Both the SSOA and the RTA must agree on an appropriate course of action or the SSOA will follow the escalation procedures.

B. RTA Internal Reviews. The RTA must develop and document a process for the performance of on-going internal safety audits that assess the elements and implementation of the RTA safety plan. Each element of the safety plan must be audited at least once during a three-year cycle. The audit process must at a minimum; describe a process used by the

RTA to determine if all identified elements of the safety plan are performing as intended; determine if areas of non-compliance and hazards are being identified in a timely manner; ensure that all elements are being reviewed in an on-going manner and over a three-year cycle; and, ensure that no unit leads its own internal audit. The RTA will notify the SSOA in writing at least 30 days prior to any internal audit and will provide audit checklists, procedures, and other documents as necessary. The RTA will coordinate any comments on the checklists and schedule with the SSOA. On or before February 15th of each year, the RTA will submit a report detailing all internal safety audits performed during the preceding calendar year. The report, signed by the RTA accountable executive, must contain at a minimum; a listing of the internal safety audits conducted the previous calendar year; an updated schedule for audits that will be conducted in the current three-year cycle; a status of all findings; and, recommendations and corrective actions resulting from the audits conducted the previous calendar year. The SSOA will review and approve the internal audit report submitted by the RTA prior to submission to the FTA each year on or before March 15th.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:924 (May 2018).

#### **§1511. Triennial SSOA Audits**

A. Audit Procedures. In addition to on-going inspections, investigations, and examinations of RTA safety implementation procedures, the SSOA will conduct an on-site audit of the RTA's implementation of its safety program at least once during each three-year cycle. The SSOA and RTA may agree that the SSOA will conduct its audit on an ongoing basis over the three-year cycle. The three-year audit will be a comprehensive review and evaluation of the effectiveness of the RTA safety plan and other standard operating procedures. The audit will generally be conducted prior to the FTA triennial audit of the SSOA Program. In anticipation of a three-year audit of the RTA safety program, the SSOA will establish an audit team and audit schedule; develop audit checklists for use during the audit, provide the RTA with written notification of the audit schedule 60 days in advance, and offer the RTA an opportunity to schedule a pre-audit meeting to ensure clarity of SSOA audit objectives. The SSOA will provide the RTA with the list of team members and audit checklists 30 days in advance of the audit. The audit is intended to be an open and collaborative process with the RTA with the primary goal of improving safety procedures documentation and implementation at the RTA.

B. Audit Findings. A list of audit findings will be incorporated into an audit tracking matrix. The matrix will provide the findings and any comments developed by the SSOA necessary to clarify the intent of the finding. The matrix will be used to track any findings to resolution.

C. Audit Report. Any findings established during a triennial audit will be documented in a draft written report along with recommendations for improvements (including recommended CAPs) to the safety plan or other documentation related to the effectiveness of the RTA safety plan and safe operations of the RFGPTS. The RTA will have

an opportunity to comment on the content of the report, including the findings and recommendations prior to the SSOA publishing the final audit report. If the RTA has alternative methods to address the recommendations provided by the SSOA in the draft audit report, the SSOA will consider those and initiate dialogue as appropriate. The SSOA review team will make revisions, if appropriate to the goals of the audit, and will distribute the final audit report. Corrective actions required, as a result of the audit, will be managed through the corrective action process. The SSOA will transmit final audit reports to the FTA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:925 (May 2018).

#### **§1513 Accident Notification**

##### **A. Requirements**

1. The SSOA requires the RTA to report the following accidents (reportable accident):

a. fatality (occurring at the scene or within 30 days following the accident).

b. one or more persons suffering serious injury (Serious injury means any injury which:

i. requires hospitalization for more than 48 hours, commencing within 7 days from the date of the injury was received;

ii. results in a fracture of any bone (except simple fractures of fingers, toes, or nose);

iii. causes severe hemorrhages, nerve, muscle, or tendon damage;

iv. involves any internal organ; or

v. involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface).

c. a collision involving a rail transit vehicle.

d. a runaway train.

e. an evacuation for life safety reasons.

f. any derailment of a rail transit vehicle, at any location, at any time, whatever the cause.

2. In any instance in which the RTA is required to notify the Federal Railroad Administration (FRA) of an accident as defined by 49 CFR §225.5 (i.e., shared use of the general railroad system trackage or corridors), the RTA must also notify the SSOA and FTA of the accident within the same time frame as required by the FRA. The RTA will also be required to report any accident meeting the criteria and thresholds developed by the FTA and published as rule (i.e. 49 CFR Appendix to Part 674) or guidance under the national public transportation safety plan or other reporting guidelines. These will be published and communicated to the RTA through the SSOA procedure's manual.

B. Methodology and Content: Two-Hour Notification. The RTA shall notify the SSOA and FTA within two hours of a reportable accident. Notification shall be via email (or if unavailable, via telephone with follow-up email) or other electronic notification method described in the procedure's manual. The two-hour notification will contain the following information:

1. unique accident identification number (YYMMDD operator badge number, if more than one crash occurs on one day, the time will be added in 24-hour format as shown: YYMMDD HHMM operator badge number. All follow up

information associated with a reportable accident will contain the unique accident identification number.);

2. sender (caller) name;
3. transit system name;
4. type of accident (e.g., which accident criteria prompted the accident report to the SSOA);
5. time and date of the accident;
6. the location of the accident;
7. transit vehicle identifying information, including route, direction, vehicle number, block number, etc.;
8. information about any other vehicles involved;
9. number of injuries (persons requiring immediate medical attention away from the scene);
10. number of fatalities;
11. estimated property damage, if available;
12. a brief description of the accident;
13. a description of accident investigation activities completed and anticipated in the short term;
14. preliminary determination of accident cause, if available; and
15. NTSB determination, if available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:925 (May 2018).

#### **§1515. Investigations**

A. The SSOA must investigate or require an investigation of any reportable accident and is ultimately responsible for the sufficiency and thoroughness of all investigation reports, whether conducted by the SSOA, the RTA, or a third party. Investigations can be conducted by the SSOA, be delegated to the RTA by the SSOA, or conducted jointly by the SSOA and RTA.

1. RTA Investigations. In most cases, the SSOA requires the RTA to investigate their own accidents and the SSOA will conduct an independent review of the RTA's findings of causation. When conducting an accident investigation on behalf of the SSOA, investigations are performed in accordance with accident investigation procedures developed by the RTA and approved by the SSOA. The RTA will develop accident investigation procedures that meet or exceed all rules, guidance or industry standards associated with investigation procedures, including this SSOPS. Accident investigation procedures will be reviewed annually by the RTA against industry standards and updated as appropriate and necessary. During accident investigations conducted by the RTA, the SSOA will provide any technical assistance or guidance requested by the RTA in support of the accident investigation.

2. SSOA Investigations. If the SSOA determines that it will conduct its own investigation, the SSOA will inform the RTA of its decision to conduct or participate in an investigation, will use investigation personnel other than those employed or utilized by the RTA, and will use the RTA's approved investigation procedures. SSOA investigation personnel will have the proper investigation training and expertise as outlined in the public transportation certification training program. The RTA will be provided with a list of SSOA investigation team members. The SSOA

investigation team will arrive at the RTA as soon as practicable. The SSOA investigation team will wait until the RTA and/or other emergency response personnel have secured the scene before commencing its investigation. The SSOA reserves the right to request that the RTA preserve the scene to the maximum extent feasible until arrival and start of the investigation. All SSOA investigation personnel will be granted authority to access records, materials, data, analysis, and other information which is pertinent to the investigation. The RTA is expected to provide the SSOA investigation team with the resources and information necessary to conduct the investigation in an effective and efficient manner.

3. Joint Investigations. The SSOA may request joint participation in an investigation. In such cases, the RTA will cooperate to the extent practicable in preserving the scene until SSOA investigation team members arrive. The SSOA investigation team will observe or participate in field analysis, operational surveys, interviews, record checks, data analysis, and other on-site and off-site tasks that may be necessary for a comprehensive investigation. The SSOA investigation team will observe or participate in assessing physical evidence of the scene and document the environmental and physical factors of the scene through measurements, diagrams, and photographs. As part of the investigation, the SSOA investigation team will observe or participate in assessing compliance with operating rules and procedures; conducting follow up interviews (if required); analyzing employee records and the results of post-accident drug and alcohol tests; and conducting vehicle and equipment inspections. If the SSOA investigation team requires information or analysis which is not readily available, or which may require additional resources by the RTA, it will request this information or analysis in a written request to the RTA.

4. National Transportation Safety Board (NTSB) Investigations. In any instance in which a safety event on the RTA's RFGPTS is the subject of an investigation by the NTSB, the SSOA will participate in the investigation and will evaluate whether the findings or recommendations by the NTSB require CAP development by the RTA, and if so, the SSOA will order the RTA to develop and carry out the CAP.

5. Reporting. All accident investigations will result in a formal investigation report. Accident reports will describe the investigation activities; identify the factors that caused or contributed to the accident; and set forth a CAP, as necessary or appropriate. In most cases, the RTA will conduct investigations of their own accidents and will be required to produce a final accident investigation report within 30 days of the accident, unless delayed by circumstances (e.g. unresolved medical reports) or missing information (e.g. incomplete police reports). The RTA will provide a monthly accident log update detailing the status of all investigations through closure and adoption by the SSOA. Upon submission of a final accident investigation report by the RTA, the SSOA will conduct an independent review of the findings of causation and either provide acceptance and adoption of the report in a timely manner or ask for additional information or analysis. In cases where the SSOA

does not believe that adequate investigation into the cause of an accident has been performed, it may conduct its own investigation. In cases where the SSOA decides to conduct its own investigation, the SSOA will produce an accident investigation report within 30 days of the accident, unless delayed by circumstances (e.g. unresolved medical reports) or missing information (e.g. incomplete police reports). The final accident report will be provided to the RTA for review and concurrence. If the RTA does not concur with the SSOA's report, the RTA may submit a written dissent of the report, which the SSOA may include in the final report. In cases where the SSOA and RTA conduct a joint accident investigation, both agencies will collaborate on investigation, analysis, and determination of causal or contributing factors. Both agencies will also collaborate on developing the final accident investigation report. Upon completion, the SSOA will adopt the final report. In special circumstances, the FTA may conduct an independent investigation of an accident or review the findings of causation contained in an accident report. The SSOA and RTA will cooperate, to the extent practicable, with the FTA's investigation and provide support for findings and recommendations.

6. Corrective Actions. If a final investigation report contains findings and/or recommendations for addressing deficiencies or unsafe conditions identified during the investigation process, the RTA will be responsible for developing appropriate CAPs. The SSOA will review and approve or ask for revisions to CAPs as appropriate. If, after reviewing an investigation report not resulting in a CAP and the SSOA determines that a CAP was necessary or appropriate, the SSOA will communicate the need to develop the CAP to the RTA.

7. Records Confidentiality. The Louisiana Public Records Act, also known as Louisiana's Sunshine Law, was enacted by the State Legislature in 1940, and is currently provided for in R.S. 44:1 et seq. Under Louisiana's Sunshine Law, the SSOA generally cannot legally protect the confidentiality of accident investigation reports from discovery except when the report contains sensitive security information, or when otherwise exempted for in law, jurisprudence, and/or R.S. 44:1 et seq. Anyone can request public records and no purpose is required. There are no restrictions on what can be done with the public documents once a records requester has them in hand. The custodian of the records must respond to requests within three business days.

Examples of Exemptions: Pending criminal litigation; juvenile status offenders; sexual offense victims; security procedures; trade secrets; and some public employee information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:926 (May 2018).

### **§1517. Corrective Action Plans**

A. The SSOA's primary concern is the safety of the travelling public using a RFGPTS. Corrective action plans are an integral part of ensuring safety. The SSOA will work with the RTA to ensure that corrective actions are

implemented in a timely fashion and corrective actions are commensurate to the severity of the potential safety related hazard.

#### 1. Development

a. CAPs may be identified and developed through a number of processes and procedures including: accident investigation reports developed by the RTA, SSOA, FTA or NTSB; internal safety audits conducted by the RTA; three-year audits conducted by the SSOA or FTA; or the RTA hazard management program. CAPs may be identified by other activities as well and may be initiated by RTA or required by the SSOA. In any instance where the RTA must develop and carry out a CAP, the SSOA will review and approve the CAP before the RTA carries out the plan; however, an exception may be made for immediate or emergency corrective actions that must be taken to ensure immediate safety, provided that the SSOA has been given timely notification, and the SSOA provides subsequent review and approval. A CAP must describe, specifically, the actions the RTA will take to minimize, control, correct, or eliminate the risks and hazards identified by the CAP, the schedule for taking those actions, and the individuals responsible for taking those actions.

b. The SSOA will notify RTA of its approval or rejection of a corrective action plan within 15 calendar days of receiving the CAP. In the event the SSOA rejects a CAP, the reasons and recommended revisions will be stated in writing. RTA shall submit a revised CAP to the SSOA no later than 15 calendar days following the rejection. If the RTA does not agree with the proposed revisions, the SSOA and RTA shall meet to resolve differences regarding the CAP. In any instance in which a safety event on the RTA's RFGPTS is the subject of an investigation by the NTSB, the SSOA will evaluate whether the findings or recommendations by the NTSB require CAP development by the RTA, and if so, the SSOA will order the RTA to develop and carry out the CAP.

2. Tracking. The RTA must periodically report to the SSOA on its progress in carrying out the CAP. The SSOA will monitor the RTA's progress in carrying out the CAP through unannounced, on-site inspections, or any other means the SSOA deems necessary or appropriate. CAPs shall be tracked by using the following naming convention. Each CAP name shall begin with: YY-##. The first CAP for a year shall be 01 and the numbers shall increase one-by-one through the year. The following year, the numbers shall begin again at 01. CAPs shall be entered into the RTA CAP log upon creation and remain on the log the entire calendar year even after closure. CAP progress is tracked during monthly meetings.

3. Closure. Implementation of CAPs may require timeline adjustments. The SSOA should be informed of any implementation schedule changes and review the reasons for those changes. CAPs will be acknowledged as closed by the SSOA once supporting documentation is provided by the RTA and review and/or inspection is conducted by the SSOA. The SSOA will provide the RTA with timely written acceptance of a CAP closure.



**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:927 (May 2018).

**§1519. Annual Reporting to FTA: SSOA Reporting Requirements**

A. On or before March 15th of each year, the SSOA will submit the following material to the Louisiana Governor’s Office, the RTA Board of Commissioners, and the FTA (submitted electronically through a specified reporting system):

1. the SSOPS and the accompanying procedures manual, with an indication of any changes to those documents during the preceding 12 months;
2. evidence that each of its employees and contractors has completed the requirements of the public transportation safety certification training program, or, if in progress, the anticipated completion date of the training;
3. a publicly available report that summarizes its oversight activities for the preceding 12 months, describes the causal factors of accidents identified through investigation, and identifies the status of corrective actions, changes to the RTA safety plan, and the level of effort by the SSOA in carrying out its oversight activities;
4. a summary of the triennial audits completed during the preceding 12 months, and the RTAs’ progress in carrying out corrective action plans arising from triennial audits (if conducted);
5. evidence that the SSOA has reviewed and approved any changes to the RTA safety plans during the preceding 12 months; and
6. a certification that the SSOA is in compliance with the requirements 49 CFR Part 674.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:928 (May 2018).

**§1521. Procedures Manual Content**

A. Program Policies and Objectives

1. The policy statement of the Louisiana SSO program. The Louisiana Department of Transportation and Development’s State Safety Oversight Program is responsible for the development and implementation of an effective and comprehensive state safety oversight program to ensure that all rail fixed guideway public transportation systems in its jurisdiction fully define and implement a safety program that is compliant with all applicable state and federal rules and regulations.

2. The objectives for the SSO program include the following:

- a. developing and maintaining an SSO program meeting the federal and state requirements, including but not limited to 49 CFR Parts 674.11(f), 674.13(a)(1-3) and 674.41(c);
- b. assuring that SSO program staff and contractors meet training and qualification requirements outlined in the public transportation safety certification training program interim provisions;

c. providing oversight and technical assistance to the RTA in developing, maintaining, evaluating and implementing a safety program wholly owned by the RTA, not the state of Louisiana;

d. working cooperatively with the RTA and FTA SSO program, to improve system safety performance and reduce system safety risk to as low as reasonably practical;

e. ensuring RTA conducts investigations and internal audits as required, and participating as appropriate (SSOA may choose to lead, participate in, or conduct independent investigations, audits or inspections);

f. ensuring RTA executive staff fully support the safety principles and methods of safety management systems (SMS) as the basis for enhancing the safety of public transportation;

g. ensuring RTA safety staff and contractors meet training and qualifications outlined in the public transportation safety certification training program interim provisions;

h. participating in safety meetings;

i. ensuring that investigations are conducted to determine causality, reviewing investigations of accidents/incidents/events as appropriate;

j. providing guidance and input to the RTA safety implementation program;

k. investigating any allegations of an RTAs non-compliance with their safety plan.

B. Minimum Safety Standards. RTA system safety and security related documents in effect January 2018.

Document	Current Version
System Safety Program Plan/Agency Safety Plan (SSPP/ASP)	October 2017
Security and Emergency Preparedness Plan (SEPP)	June 2017
Hurricane Emergency Preparedness Plan (HEPP)	June 2017
Emergency Action Plan (EAP)	October 2014
Continuity of Operations Plan (COOP) (in revision)	April 2016
Right-of-Way Worker Protection Plan	July 2017
Safety and Security Certification Program Plan	August 2017
Transit Asset Management Plan	In development
Streetcar Operator Manual	2016
Dispatchers Training Manual	2016
Rail Maintenance Plan (Power, Track Fleet) (in revision)	June 2016
RTA SOPs	In effect January 2018

C. Safety Plan Review

1. RTA system safety program plan must be compliant with 49 CFR Part 659.

2. RTA public transportation agency safety plan must be compliant with 49 CFR Part 673 one year after it becomes final rule.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:214; 49 C.F.R Part 674; 49 U.S.C. § 5329.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of Multimodal Commerce, LR 44:928 (May 2018).

Shawn Wilson, Ph.D.  
Secretary

1805#018

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Transporting of Feral Hogs (LAC 76:V.130)

The Wildlife and Fisheries Commission has amended the feral hog trapping regulations (LAC 76:V.130). This Rule is hereby adopted on the day of promulgation.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§130. Feral Hog Trapping**

A. Feral hogs may be trapped in cage or corral traps year-round by holders of a valid basic hunting license. Feral hogs may be captured by use of snares year-round by holders of a valid trapping license.

B. Cage or corral traps must have an opening in the top of the trap that is no smaller than 22 inches x 22 inches or 25 inches in diameter.

C. Feral hogs shall not be transported alive unless done so by a feral swine authorized transporter registered with the Board of Animal Health of the Louisiana Department of Agriculture and Forestry, who has proof of said registration in his/her possession.

1. Feral hogs being transported in violation of this Rule will be confiscated and disposed of in accordance with LDWF policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:20, R.S. 56:34, R.S. 56:56, R.S. 56:115 and R.S. 56:116.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 38:1997 (August 2012), LR 44:929 (May 2018).

Jack Montoucet  
Secretary

1805#024

# Notices of Intent

## NOTICE OF INTENT

Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
and  
Office of Agro-Consumer Services  
Division of Weights and Measures

Crawfish—Live, Boiled, and Peeled (LAC 7:XXXV.107)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry (“department”) intends to amend LAC 7:XXXV.107 regarding crawfish, live, boiled, and peeled. The Rule regarding the sale and labeling of crawfish has not been amended since it was promulgated in 1993. It is the intent of these amendments to make the Rule easier to read and to remove redundancies. The proposed Rule also adds a definition for “sack” and requires live crawfish to be sold by sack, recognizing in law what is already standard to the practice.

### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXV. Agro-Consumer Services

#### Chapter 1. Weights and Measures

#### §107. Crawfish—Live, Boiled, Peeled

##### A. Definitions

*Boiled Crawfish*—any crawfish, still in the shell, which have been processed by boiling or steaming.

*Crawfish*—freshwater crustaceans of the genera *Cambarus* or *Astacus* common to Louisiana.

*Live Crawfish*—any crawfish which are live at the time of purchase.

*Peeled Crawfish*—any crawfish which have been processed to remove the shells.

*Sack*—a mesh bag commonly used in the sale of crawfish.

##### B. Live Crawfish

1. Live crawfish shall be sold in sacks by net weight.
2. The net weight of live crawfish in sacks must be clearly labeled in indelible ink or otherwise waterproof lettering and in accordance with all other provisions of the Louisiana weights and measures law and of these regulations. The labels must remain on all sacks of live crawfish once they leave the possession of the farmer or fisherman.

##### C. Boiled Crawfish

1. Boiled crawfish shall be sold by net weight. The net weight of boiled crawfish shall be the net weight after boiling.

2. Boiled crawfish when sold for immediate consumption on the premises are exempt from this Section.

##### D. Peeled Crawfish

1. Peeled Crawfish Sold Washed or Cleaned
  - a. Peeled crawfish which have been washed or cleaned of naturally adhering fat shall be labeled “cleaned” or “washed.”

- b. The net weight of the washed crawfish shall be the drained weight.

2. Peeled Crawfish Sold with Naturally Adhering Fat

- a. Peeled crawfish may be packaged washed.
- b. Naturally adhering fat content of packages of peeled crawfish shall not exceed 10 percent of the net weight of the crawfish in the package.
- c. Testing for compliance with the fat content provisions shall be done in accordance with procedures outlined by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1532 (December 1993), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences and Office of Agro-Consumer Services, Division of Weights and Measures, LR 44:

#### Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments via the U.S. mail or hand delivery to Steve Sessums, Director of Agro-Consumer Services, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 5000, Baton Rouge, LA 70806. Public comments must be received no later than 4 p.m. on June 10, 2018. No preamble is available.

Mike Strain, DVM  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Crawfish—Live, Boiled, and Peeled**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule change makes technical changes related to crawfish, adds a definition for “sack”, and codifies current practice by requiring live crawfish to be sold by sack.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not affect revenue collections of state or local governmental units as the labeling requirements in the rule do not change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes will have no effect on competition and employment.

Dane Morgan  
Assistant Commissioner  
1805#046

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences**

Horticulture and Quarantine Programs  
Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (“department”) intends to adopt the Rule set forth below, expanding a previously established quarantine for the following pest: emerald ash borer (“EAB”), *Agilus planipennis* Fairmaire. The existing quarantine presently includes the parishes of Bossier, Claiborne, Lincoln, Union, and Webster. This proposed Rule expands the quarantine to include Bienville, Jackson, Morehouse, and Ouachita Parishes.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood

product industries, and nursery growers due to its ability to infest ash trees. In 2015, the wholesale value of woody ornamental sales for nursery growers in the state was \$63.6 million, a portion of which is comprised of sales of ash trees (*Louisiana State University AgCenter 2015 Louisiana Summary, Agriculture and Natural Resources*). Louisiana’s forests and forestry/wood products industries generated an output industry production value of \$10,860,000,000 in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state’s economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana’s commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state’s commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state’s economy and to its private citizens. The expansion of the quarantined area set forth in LAC 7:XV.167 is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana’s citizens and forests, the state’s commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry and state entomologist hereby exercise its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by expanding the quarantine in LAC 7:XV.167 to include Bienville, Jackson, Morehouse and Ouachita Parishes.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XV. Plant Protection and Quarantine**

**Chapter 1. Crop Pests and Diseases**

**Subchapter F. Emerald Ash Borer Quarantine**

**§167. Emerald Ash Borer Quarantine**

A. ...

B. Quarantined areas in this state include:

1. the entire parishes of Bienville, Bossier, Claiborne, Jackson, Lincoln, Morehouse, Ouachita, Union and Webster.

B.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 43:245 (February 2017), LR 44:

**Family Impact Statement**

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on June 10, 2018. No preamble is available.

Mike Strain, DVM  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Horticulture and Quarantine Programs Emerald Ash Borer Quarantine

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not result in additional savings or expenditures for state or local governmental units. The proposed rule change codifies the existing emergency rule by expanding the existing quarantine on regulated articles that are susceptible to infestation by the emerald ash borer ("EAB"), *Agilus planipennis* Fairmaire to include Bienville, Jackson, Morehouse, and Ouachita Parishes. The expansion of

the quarantine to these parishes will result in a workload increase for the Louisiana Department of Agriculture and Forestry (LDAF) for additional inspections performed by existing personnel in the impacted parishes. The increased workload will be absorbed by LDAF utilizing existing budget authority and personnel.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may decrease revenue collections for the state and the quarantined parishes by an indeterminable amount. To the extent that the quarantine results in a reduction in the cutting of ash timber, severance taxes collected in these parishes would be reduced. These taxes are collected by the state with a portion distributed back to the parish in which the timber was severed. For reference, the total timber produced in the affected parishes consists of approximately 2-5% ash timber.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may increase costs for certain entities in quarantined parishes. Any entity with regulated articles subject to the quarantine—such as ash nursery stock, ash logs/timber and cut firewood—will not be permitted to move those regulated articles from quarantined areas to non-quarantined areas without a certificate or limited permit issued by the LDAF. Certain timber products may require additional treatment to be eligible for the permit. There is no fee for the certificate or permit.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Dane Morgan  
Assistant Commissioner  
1805#051

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Horticulture and Quarantine Programs Roseau Cane Scale Quarantine (LAC 7:XV.169)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (department) intends to adopt the rule set forth below establishing a quarantine for the following pest: Roseau cane scale, *Nipponaclerda biwakoensis*. The following parishes are affected: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Feliciana, East Baton Rouge, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. Landry, St. John, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion, Vernon, Washington, West Baton Rouge, and West Feliciana.

Roseau cane scale (RCS) poses an imminent threat to the health and welfare of Louisiana's wetlands, and possibly the sorghum, sugarcane and rice industries. In 2016, the gross farm value of sorghum in the state was \$15,100,000 (Louisiana State University AgCenter 2016 Louisiana Summary, Agriculture and Natural Resources). Sugarcane is

also a possible host for RCS. The gross farm value for sugarcane in Louisiana was \$496,000,000 and the total value of the sugarcane crop to producers, processors, etc. at the first processing level was \$834,000,000 (LSU AgCenter 2016 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for rice in Louisiana was \$305,000,000 (LSU AgCenter 2016 Louisiana Summary, Agriculture and Natural Resources). The potential of rice as a host for RCS also is being evaluated in laboratory and greenhouse tests. Acreage for one or more of these crops exists in parishes where RCS infestations have been documented on Roseau cane. LSU AgCenter is currently proceeding with trials to determine if sorghum, sugarcane and rice are hosts for RCS. In addition to the agronomic impact, hundreds of thousands of acres of wetlands may be adversely affected by RCS. RCS is implicated in the Roseau cane die-offs which could greatly accelerate coastal erosion. Roseau cane is a unique plant that has the ability to thrive in tidal estuaries with salinity levels that would prohibit growth of most other aquatic plants.

Natural dispersal of RCS is believed to be limited to relatively short distances. However, without restriction, RCS could spread through human-assisted means over long distances via RCS-infested Roseau cane. Recent observations of Roseau cane die-offs from the scale have resulted in areas converting to open water or colonization by exotic invasive vegetative species. As Roseau cane is considered one of the best aquatic plants to assist in slowing coastal erosion, it is imperative to eliminate the movement of Roseau cane scale to areas in the state where it currently has not been detected.

For these reasons, the presence of RCS in Louisiana presents a peril to the integrity and stability of Louisiana's coastal wetlands. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

##### Chapter 1. Crop Pests and Diseases

##### Subchapter G. Roseau Cane Scale Quarantine

##### §169. Roseau Cane Scale Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the insect Roseau cane scale ("RCS"), *Nipponaclerda biwakoensis*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Regulated articles, defined in this Section, are not allowed to move within or outside of the quarantine area.

C. The quarantine area encompasses all areas south of Louisiana Highway 10 beginning at the Mississippi state line (near Bogalusa) and moving west until intersecting Highway 171 in Vernon Parish; then, moving south on Highway 171 continuing to Highway 190 in DeRidder and turning west on Highway 190; continuing on Highway 190 until reaching the Sabine River. Quarantine areas in this state include:

1. portions of the following parishes that are south of Louisiana Highway 10:
  - a. Allen;

- b. East Feliciana;
  - c. Evangeline;
  - d. Pointe Coupee;
  - e. St. Landry;
  - f. St. Helena;
  - g. Tangipahoa;
  - h. Vernon;
  - i. Washington; and
  - j. West Feliciana;
2. the entire parishes of:
    - a. Acadia;
    - b. Ascension;
    - c. Assumption;
    - d. Beauregard;
    - e. Calcasieu;
    - f. Cameron;
    - g. East Baton Rouge;
    - h. Iberia;
    - i. Iberville;
    - j. Jefferson;
    - k. Jefferson Davis;
    - l. Lafayette;
    - m. Lafourche;
    - n. Livingston;
    - o. Orleans;
    - p. Plaquemines;
    - q. St. Bernard;
    - r. St. Charles;
    - s. St. James;
    - t. St. John;
    - u. St. Martin;
    - v. St. Mary;
    - w. St. Tammany;
    - x. Terrebonne;
    - y. Vermillion; and
    - z. West Baton Rouge.

D. Clean nursery stock of the genus *Phragmites* may be moved within the quarantine area under a special permit issued by the Department of Agriculture and Forestry.

E. Limited movement of Roseau cane by boat only is allowed for waterfowl hunters as long as the Roseau cane material is moved no more than one-quarter mile from its original location and remains within the quarantine area.

F. The following articles are deemed to be regulated articles for purposes of this Subsection:

1. The Roseau cane scale in all of its life stages.
2. Roseau cane or any species or variety of the genus *Phragmites*.
3. Any other article, product, or means of conveyance not listed in this Subsection may be designated as a regulated article if an inspector determines that it presents a risk of spreading Roseau cane scale and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

G. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 44:

### Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

### Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

### Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on June 10, 2018. No preamble is available.

Mike Strain, DVM  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Horticulture and Quarantine Programs Roseau Cane Scale Quarantine

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not result in additional savings or expenditures for state or local governmental units.

The proposed rule change codifies the existing emergency rule and establishes a quarantine on regulated articles that are susceptible to infestation by the Roseau Cane Scale, *Nipponaclerda biwakoensis* in following parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Feliciana, East Baton Rouge, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. Landry, St. John, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion, Vernon, Washington, West Baton Rouge, and West Feliciana. The establishment of the quarantine will result in a workload increase for Louisiana Department of Agriculture and Forestry (LDAF) for additional inspections. The increased workload will be absorbed by LDAF utilizing existing budget authority and personnel.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs or economic benefits to directly affected persons or non-governmental groups.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Dane Morgan  
Assistant Commissioner  
1805#050

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Economic Development Office of Business Development

#### Industrial Ad Valorem Tax Exemption Program (LAC 13:I.Chapter 5)

The Louisiana Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 hereby provide notice of their intent to amend the rules of the Industrial Tax Exemption Program in LAC 13:I.Chapter 5 to implement further programmatic changes in alignment with Executive Order 16-73 and the rules effective on June 20, 2017.

### Title 13

### ECONOMIC DEVELOPMENT

#### Part I. Financial Incentive Programs

#### Chapter 5. Industrial Ad Valorem Tax Exemption Program

#### §501. Statement of Purpose

##### A. New Rules

1. These rules amend and restate prior rules and upon adoption are to implement two important policies for the industrial property tax exemption. The first is as a competitive incentive for job creation and under compelling circumstances, job retention. The second is to provide for input from local parish and municipal governments, school boards and sheriffs as to the extent of, and other terms and conditions for the industrial tax exemption.

2. On all projects, applicant manufacturers are to demonstrate a genuine commitment to investing in the communities in which they operate, and a genuine commitment to creating and retaining jobs in those communities. These are the expectations for the program's future, and the board will continue to operate it in a way that makes Louisiana competitive with other states in securing good jobs for our citizens while giving local governments a voice in their taxation. These rules are to be interpreted in a manner so as to promote these goals.

B. Applicability of rules in effect prior to June 24, 2016. Just as the board is promoting job growth and economic development and extending fairness to communities, the board is promoting fairness to manufacturers who have acted in accordance with prior rules. Contracts for the industrial property tax exemption and the renewal of the exemption and projects found to be pending as defined by Executive Orders JBE 16-26 and JBE 16-73 are to be treated fairly under the rules that were in place at the time of the contracts and prior to the new rules. Louisiana honors its commitments and the rules governing existing contracts and applications not subject to the new rules are to be interpreted in order to promote fairness and commitment. Therefore, only those applications with an advance notification form filed after June 24, 2016, are subject to the 2017 and 2018 rules changes.

### C. Going Forward

1. Louisiana values its manufacturers and their contributions to its economy. The board's policies going forward are to provide all a seat at the table to determine the best investment outcome for our industries and our communities.

2. All rules in this chapter are intended to align with the above purpose while providing a process that balances accountability with reasonable administrative burden for state and local government and applicants.

3. For those applications with an advance notification form filed after June 24, 2016, but before July 1, 2018, the applicant has the option of choosing whether to proceed under the rules effective June 20, 2017, or the rules effectuated in 2018. Applications with an advance notification form filed after June 24, 2016, but before October 21, 2016, shall be subject to the rules effectuated on June 20, 2017, except that the industrial property tax exemption granted may be up to 100 percent for an initial contract term of no more than 5 years and may be renewed for no more than an additional 5 year contract term at up to a 100 percent exemption based upon performance of the applicant's obligations as delineated in exhibit A.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, LR 43:1132 (June 2017), amended LR 44:

## §502. Definitions

### *Addition to a Manufacturing Establishment—*

1.a. a capital expenditure for property that would meet the standard of a new manufacturing establishment if the addition were treated as a stand-alone establishment;

b. a capital expenditure for property that is directly related to the manufacturing operations of an existing manufacturing establishment; or

c. an installation or physical change made to a manufacturing establishment that increases its value, utility or competitiveness;

2. maintenance capital, required environmental capital upgrades, and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall not qualify as an addition to a manufacturing establishment;

3. expenses associated with the rehabilitation or restoration of an establishment as provided for in §511 shall be included as an addition to a manufacturing establishment.

*Beginning of Construction*—the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins.

*Board*—Board of Commerce and Industry.

*Capital Expenditure*—the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business.

*Department*—Louisiana Department of Economic Development.

*Establishment*—an economic unit at a single physical location.

*Exhibit A*—a fully executed agreement between the department and the applicant specifying the terms and conditions of the granting of the exemption contract.

*Integral*—required to make whole the product being produced.

*Job*—positions of employment that are:

1. new (not previously existing in the state) or retained;

2. permanent (without specific term);

3. full-time (working 30 or more hours per week);

4. employed directly, by an affiliate or through contract labor;

5. based at the manufacturing establishment;

6. filled by a United States citizen who is domiciled in Louisiana or who becomes domiciled in Louisiana within 60 days of employment; and

7. any other terms of employment as negotiated in the exhibit A, including a requirement that in order to qualify as a job, a basic health benefits plan is or has been offered in conjunction with the position of employment.

*Local Governmental Entity*—the parish governing authority, school board, sheriff, and any municipality in which the manufacturing establishment is or will be located.

*Maintenance Capital*—costs incurred to conserve as nearly as possible the original condition.

*Manufacturer*—a person or business who engages in manufacturing at a manufacturing establishment.

*Manufacturing*—working raw materials by means of mass or custom production, including fabrication, applying manual labor or machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be "suitable for use" as manufactured products that are placed into commerce for



sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

*Mega-Project*—a manufacturing establishment that provides all of the following:

1. 500 jobs, employed directly, only, and otherwise meeting the definition of jobs, which shall generate a minimum of \$20,000,000 in net new payroll within three years of the beginning of operations; and

2. a minimum of \$100,000,000 in capital expenditures.

*Obsolescence*—the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

*Qualified Disaster*—

1. a disaster which results from:

a. an act of terror directed against the United States or any of its allies; or

b. any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises;

2. any disaster which, with respect to the area in which the manufacturing establishment is located, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the secretary) to warrant assistance from the federal state or local government or agency of instrumentality thereof; or

4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable.

*Rehabilitation*—the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility.

*Required Environmental Capital Upgrades*—upgrades required by any state or federal governmental agency in order to avoid fines, closures or other penalty. Environmental upgrades demonstrated to be in excess of state and federal governmental agency requirements shall not be considered required environmental capital upgrades.

*Restoration*—repairs to bring a building or structure to at least its original form or an improved condition.

*Secretary*—secretary of the Louisiana Department of Economic Development.

*Site*—one or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, LR 43:1132 (June 2017), amended LR 44:

### **§503. Advance Notification; Application**

A. An advance notification of intent to apply for tax exemption shall be filed with the department on the prescribed form prior to the beginning of construction or

installation of facilities on all projects for tax exemption except as provided in §505.A and B of these rules. An advance notification fee of \$250 shall be submitted with the form. The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification. The estimated project ending date as stated on the advance notification may be amended by the applicant if the amendment is made prior to the estimated project ending date.

B. All financial incentive programs for a given project shall be filed at the same time and on the same advance notification. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.

C. An application for tax exemption may be filed with the department on the prescribed form, subject to the following conditions:

1. the filing may be either concurrent with or after filing the advance notification, but no later than 90 days after the beginning of operations or end of construction, whichever occurs first;

2. the deadline for filing the application may be extended pursuant to §523;

3. an applicant filing an application prior to the beginning of operations or end of construction of the project shall file an annual status report with the department on the prescribed form by December 31, until the project completion report and affidavit of final cost are filed. If the applicant fails to timely file a status report the board may, after notice to the applicant, terminate the contract;

4. an application fee shall be submitted with the application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$500 and in no case shall a fee exceed \$15,000 per project;

5. The department reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the form is incomplete or incorrect, or the correct fee is not submitted. The document may be resubmitted with the correct information and fee.

6. If the application is submitted after the filing deadline, the term of exemption available under an initial contract and renewal thereof shall be reduced by one year for each year or portion thereof that the application is late, up to a maximum reduction up to the maximum remaining term. The board may impose any other penalty for late filing that it deems appropriate.

D. The department will provide a copy of the application and all relative information to the Louisiana Department of Revenue (LDR) for review. LDR may require additional information from the applicant. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action.

E. In order to receive the board's approval, applications with advance notifications filed after June 24, 2016, shall include an exhibit A containing the following terms and conditions:

1. either the number of jobs and payroll to be created at the project site or the number of jobs and payroll to be retained at the project site where applicable;

2. that the initial exemption contract shall be for a term of no more than five years and may provide for an ad valorem exemption of 80 percent, except that the initial exemption contract for mega projects shall be for a term of no more than five years and may provide for an ad valorem exemption of up to 93 percent;

3. that the applicant can apply for a renewal exemption contract, the consideration of which will be based upon the applicant's performance during the initial term of the contract and that the renewal exemption contract shall be for a term of no more than five years and may provide for an ad valorem exemption of 80 percent, except that the renewal exemption contract for mega projects shall be for a term of no more than five years and may provide for an ad valorem exemption of up to 93 percent;

4. that the department, on behalf of the board, will notify the local governmental entities and the assessor when jobs and/or payroll requirements are not met in accordance with the exhibit A;

5. a provision addressing the penalty for failure to create the requisite number of jobs and/or payroll at the manufacturing establishment, including but not limited to, payment of stipulated sums to the taxing authorities, a reduction in term, reduction in percentage of exemption, or termination of the exemption; and

6. a statement of return on investment (ROI) as determined by the secretary.

F.1. Applications which provide for a new manufacturing establishment or which provide for an addition to a manufacturing establishment with the creation of new jobs or a compelling reason for the retention of existing jobs shall be favored by the board.

2. In determining whether a company has presented a compelling reason for the retention of existing jobs, the following non-exclusive situations may be considered:

- a. to prevent relocation to another state or country;
- b. to provide an advantage for investment from a company with multi-state operations with an established competitive capital project program;
- c. to employ best practice or innovative, state of the art technology for the establishment's industry which shall be deemed to extend the life of the manufacturing establishment;
- d. to increase maximum capacity or efficiency;
- e. to provide the state a competitive advantage as determined by the secretary or by the board; or
- f. upon the sharing of financial information as to the profit/loss of the facility accompanied by evidence that the exemption will prolong the life of, and employment at, the manufacturing establishment.

G. Eligibility of the applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered by the board. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost. An application filed prior to completion of construction may be considered by the board and a contract may be executed based upon the best available estimates, subject to adjustments, as necessary, upon review and approval of the project completion report and affidavit of

final cost. If the applicant fails to timely file the project completion report or affidavit of final cost the board may, after notice to the applicant, terminate the contract.

H. Upon the board's approval of an application, the department, on behalf of the board, shall, within three business days, transmit a copy of the approval and Exhibit A by mail or electronic mail to each local governmental authority and the assessor and the department shall post notice of the board's approval of an application on the department's website within three business days of approval, upon which date shall begin a notice period of 30 days for the parish governing authority (speaking on behalf of the parish and all parish bodies who are located outside the boundary of any affected municipality who receive a millage), the school board, any applicable municipality (speaking on behalf of the municipality and all municipal bodies who receive a millage) and the sheriff to initiate action to approve or reject the board's action as provided hereinafter.

1. Within the 30-day notice period, the parish governing authority, the school board, or any affected municipality may identify the application on the agenda of a public meeting notice and the sheriff may issue a letter approving or denying the application, and notice of these actions shall be given to the department within 3 business days. A local governmental entity that places the application on the agenda for a public meeting will have an additional 30 days (for a total of 60 days from the start of the notice period) to conduct a public meeting issuing a resolution approving or rejecting the board approved application, and notice of the issuance shall be given to the department within 3 business days. If a local governmental entity does not take action or provide notice as required herein, then the application will be deemed approved by each such entity.

2. Within 60 days of the promulgation of these rules, the local governmental entities for each parish (in consultation with the parish assessor and, upon request, with guidance from the department), shall make best efforts to develop reasonable guidelines for application approval and/or denial and if so desired, penalty guidelines for failure to achieve and maintain jobs and/or payroll as required by the exhibit A.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), LR 41:2318 (November 2015), LR 43:1133 (June 2017), LR 44:

#### **§505. Miscellaneous Capital Additions**

A. The renewal of miscellaneous capital addition contracts approved in accordance with JBE 16-26 and 16-73 shall be treated in accordance with prior rules.

B. Miscellaneous capital additions which had pending contractual applications on June 24, 2016, and which provide for new jobs at the completed manufacturing establishment shall be considered by the board.

C. Miscellaneous capital additions which did not have a pending contractual application as of June 24, 2016 or those

with pending applications as of June 24, 2016, but do not provide for new jobs, are not eligible for the property tax exemption.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 41:2318 (November 2015), LR 43:1135 (June 2017), LR 44:

**§507. Eligible Property—Buildings and Facilities Used in Manufacturing; Leased Property; Capitalized Materials**

A. The board shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana (subject to the limitations stated in §§517 and 519) and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that house a manufacturing establishment and facilities that are operated specifically in the manufacturing of a product. The board recognizes two categories of ownership:

1. owners who engage in manufacturing at said facilities; and

2. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:

a. buildings to house a manufacturing establishment;

b. facilities that consist of manufacturing equipment operated specifically in the manufacturing process;

3. owners who are not engaged in manufacturing at the manufacturing establishment are eligible for the exemption only if the manufacturer at the site is obligated to pay the property taxes if the exemption were not granted.

B. Leased property is eligible for the exemption, if the property is used in the manufacturing process, is and remains on the plant site, and the manufacturer is obligated under the lease agreement to pay the property taxes if the exemption were not granted.

C. Capitalized materials which are an essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing establishment. Some examples of these are:

1. ammonia in a freezing plant;
2. solvent in an extraction plant; and
3. catalyst in a manufacturing process.

D. To be eligible for exemption, a manufacturing establishment must be in an operational status and engaged in manufacturing. An owner of a new manufacturing establishment under construction may apply for an exemption with the expectation that the manufacturing establishment will become operational. If the manufacturing establishment fails to become operational or ceases operations without a reasonable expectation of recommencing operations, the facility shall no longer be eligible for exemption and its contract shall be subject to termination under §531.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 43:1135 (June 2017), LR 44:

**§509. Integral Parts of the Manufacturing Operation**

A. Property that is an integral part of the manufacturing operation is eligible for the tax exemption.

B. The following activities are considered to be integral to the manufacturing process:

1. quality control/quality assurance;
2. packaging;
3. transportation of goods on the site during the manufacturing process;
4. other on site essential activities as approved by the secretary and the board.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1135 (June 2017), LR 44:

**§511. Rehabilitation and Restoration of Property**

A. Capital expenditures for the rehabilitation or restoration of an existing establishment may be exempted if it is not maintenance. If replacements or upgrades are made as part of a rehabilitation or restoration to an establishment, only the capital expenditures in excess of original cost shall be eligible for tax exemption. A deduction for the original cost of property to be replaced shall not be made if the project will result in capital additions that exceed \$50,000,000.

B. Exemption may be granted on the costs of rehabilitation or restoration of a partially or completely damaged facility, but only on the amount in excess of the original cost.

C. Original costs deducted from rehabilitation or restoration made or rebuilding shall be clearly documented.

D. A deduction for the original cost of property to be replaced as part of a rehabilitation or restoration, as provided by Subsections A or B, shall not be made if the project is related to the replacement or reconstruction of property after the destruction of or damage to such property, as a result of a qualified disaster.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1135 (June 2017), LR 44:

**§513. Relocations**

A. A manufacturing establishment moved from one location in the state to another place within the state shall be eligible for the unexpired consecutive years, if any, of the tax exemption contract granted at the original location.

B. If a manufacturing establishment moves from one location in the state to another location within the state, the

company shall be required to seek approval of the parish governing authority, the school board, the sheriff, and any municipality in which the manufacturing establishment will be located if these local governing authorities are different than those that approved the exemption at the original site.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 29:2633 (December 2003), LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§515. Used Equipment**

A. Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:886 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§517. Ineligible Property**

A. Maintenance capital, required environmental capital upgrades and new replacements to existing machinery and equipment, except those replacements required in the rehabilitation or restoration of a facility, are not eligible for the tax exemption.

B. If the establishment or addition is on the taxable rolls and property taxes have not been paid, the establishment or addition is not eligible for the exemption unless the assessor and local governmental entity agree in writing to remove the establishment or addition from the taxable rolls should the tax exemption be granted.

C. The board shall not consider for tax exemption any property previously subject to an ad valorem tax exemption that has expired or otherwise been terminated.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§519. Land**

A. The land on which a manufacturing establishment is located is not eligible for tax exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017). LR 44:

#### **§521. Inventories**

A. The following are not eligible for tax exemption:

1. inventories of raw materials used in the course of manufacturing;

2. inventories of work-in-progress or finished products;

3. any other consumable items.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§523. Extension of Time**

A. The department may grant an extension of up to six months for the filing of an application (§503.B), a project completion report (§525), or an affidavit of final cost (§527), provided the request for extension is received prior to the filing deadline.

B. Additional extensions of time may be granted for good cause.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§525. Effective Date of Contract; Project Completion Report**

A. The owner of a new manufacturing establishment or addition shall document the beginning date of operations and the date that construction is substantially complete. The owner must file that information with the department on the prescribed project completion report form not later than 90 days after the beginning of operations, completion of construction, or receipt of the fully executed contract, whichever occurs last. A project completion report fee of \$250 shall be submitted with the form. The deadline for filing the project completion report may be extended pursuant to §523.

B. The effective date of tax exemption contracts for property located in parishes other than Orleans Parish shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever occurs first. The effective date of tax exemption contracts for property located in Orleans Parish shall be July 31 of the applicable year.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development LR 37:2379 (August 2011), LR 41:2318 (November 2015), LR 43:1136 (June 2017), LR 44:

#### **§527. Affidavit of Final Cost**

A. Within six months of the beginning of operations, completion of construction, or receipt of the executed contract, whichever occurs last, the owner of a manufacturing establishment or addition shall file on the prescribed form an affidavit of final cost showing complete cost of the exempted project. A fee of \$250 shall be filed

with the affidavit of final cost or any amendment to the affidavit of final cost. Upon request by the department, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable. The deadline for filing the affidavit of final cost may be extended pursuant to §523.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:

#### **§529. Renewal of Tax Exemption Contract**

A. Application for renewal of the exemption must be filed with the department on the prescribed form not more than six months before, and not later than, the expiration of the initial contract. A fee of \$250 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of compliance with the initial contract of exemption, a renewal contract of exemption may be approved by the board for an additional period of no more than five years and provide for an ad valorem exemption of up to 80 percent.

B. Eligibility of the applicant and the property for renewal of the exemption will be reviewed by the board using the same criteria that was used for the initial contract, and based upon the facts and circumstances existing at the time the renewal application is considered.

C. The board shall have the option of submitting a board approved renewal application to the local governmental entities for approval in accordance with the procedures for approval of the initial exemption contract.

D. The term of the renewal contract shall be reduced by one year for each calendar month, or portion thereof, that the renewal application is filed late. The board may impose any other penalty for late renewal submission that it deems appropriate.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:

#### **§531. Violation of Rules or Documents; Inspection**

A. The board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct an inspection. During the inspection, the department may cause to be made a full investigation on behalf of the board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the applicant and complainants. Results of the investigation will be presented to the board.

B. All contracts of exemption shall be subject to inspection. If an inspection indicates that the applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the board may conduct a hearing to reconsider the contract of exemption, after giving the applicant not less than 60 days' notice.

C. If the board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the board may terminate or otherwise modify the contract.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 43:1137 (June 2017), LR 44:

#### **§533. Reporting Requirements for Changes in Operations**

A. The department is to be notified immediately of any change which affects the tax exemption contract. This includes, but is not limited to, any changes in the ownership or operational name of a firm holding a tax exemption contract. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to report any material changes constitutes a breach of contract and, with approval by the board, shall result in restriction or termination.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:

#### **§535. Sale or Transfer of Exempted Manufacturing Establishment**

A. In the event an applicant should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. A fee of \$250 shall be filed with a request to transfer the contract. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting applicant. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:868 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:

**§537. Reporting to the Parish Assessor**

A. The applicant shall file annually with the assessor of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Tax Commission, in order that the exempted property may be separately listed on the assessment rolls.

B. All property exempted shall be listed on the assessment rolls and submitted to the Tax Commission or its successor, and up to 80 percent of the taxes shall be collected thereon during the period of exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, September 1974, amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 43:1138 (June 2017), LR 44:

**Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

**Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

**Public Comments**

Interested persons should submit written comments on the proposed Rule to Tam Bourgeois through the close of business on Friday, June 22, 2018 at the Department of Economic Development, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Tam.Bourgeois@la.gov.

**Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 9:30 a.m. on Monday, June 25, 2018 at the LaSalle Building, 617 North Third Street, La Belle Room, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Industrial Ad Valorem  
Tax Exemption Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will not result in any costs or savings for state or local governmental units. The Department of Economic Development (DED) intends to administer the program with existing resources and personnel and anticipates the same for local governmental units. However, DED, as well as the LA Department of Revenue (LDR) may incur additional, though likely marginal, administrative costs associated with implementing the proposed rule changes. Local governmental units may realize marginal expenditure increases to the extent the proposed rule changes require additional public meetings to discuss applications for contracts under the Industrial Tax Exemption Program (ITEP).

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will have an indeterminable impact on revenue collections for local governmental units, but could increase local governmental revenues over time as projects filing advance notifications under previous Industrial Tax Exemption Program (ITEP) rules (providing 100% exemptions for up to 10 years) exit the program and new projects enter the program under the revised ITEP terms included in the Notice of Intent (NOI). Furthermore, the current posture of the proposed rule may result in various contract terms and exemption amounts.

The proposed rule changes allow firms filing advance notifications for ITEP after June 24th, 2016, and before July 1st, 2018, to choose rules promulgated on June 20th, 2017, related to contract terms and exemption amounts, or operate under the proposed rule changes included in this NOI. For reference, the rules promulgated on June 20th, 2017, allow for 5-year initial contracts with a 100% property tax exemption and for 3-year renewal contracts with an 80% property tax exemption. The proposed rule changes included in this NOI allow for 5-year initial contracts with an 80% property tax exemption and 5-year renewal contracts with an 80% property tax exemption. Furthermore, for projects meeting the criteria of a "mega project" under the proposed rule changes, contracts and contract renewals will have 5-year terms, but with a property tax exemption of up to 93%.

In addition, the proposed rule changes make ITEP applications associated with advance notifications filed between June 24, 2016, and October 21, 2016, subject to the rules promulgated on June 20, 2017. However, the proposed rule changes allow the aforementioned applications to have initial contract terms of five years with a tax exemption of up to 100% with renewal contracts of five years with up to a 100% property tax exemption.

The current posture of the proposed rule changes includes overlapping windows, June 24th, 2017 to July 1st, 2018, and June 24th, 2016 to October 21st, 2016, with differing contract terms and exemption amounts as outlined in the preceding two paragraphs. As a result, the contract terms and exemption amounts certain projects may be subject to is unclear if they have filed advanced notifications between June 24th, 2016, and October 21, 2016.

In the aggregate, due to the various contract terms and exemption amounts, the initial effect on revenue collections is indeterminable. However, as projects subject to previous

contract terms and tax exemptions exit the program and are replaced by projects with contract terms of five years and 80% tax exemptions, revenue collections for local governments will begin immediately. This will result in local governments being able to collect property tax revenues in Year 1 of an initial contract for a given project, rather than until the first year of a renewal contract. Furthermore, as a result of the advanced timeline of collections, local governments will be able to levy taxes on properties with higher assessed values, rather than on properties that have depreciated for five years prior to being subject to property taxes.

Lastly, as with the current rules, firms are no longer be able to receive tax exemptions for required environmental capital upgrades under the proposed rules. Increased local government revenue collections associated with this provision remain speculative and cannot be determined.

The proposed rule changes will not affect revenue collections for state governmental units.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Firms participating in ITEP filing applications associated with advance notifications filed between June 24, 2016, and October 21, 2016, have the potential to realize the greatest economic benefit from the proposed rule changes, as they can petition local governmental entities to have initial contract terms of five years with a property tax exemption of up to 100% with renewal contracts of five years with up to a 100% tax exemption.

Firms filing advance notifications for ITEP between June 24, 2016, and July 1, 2018, that are not subject to exception in the preceding paragraph will realize economic benefits associated with the ITEP rules they choose to use. To the extent such firms participate using the rules promulgated on June 20, 2017, they would be eligible for 5-year initial contracts of up to a 100% property tax exemption and for 3-year renewal contracts of up to 80% property tax exemption. To the extent such firms participate using the rules included in this NOI they would be eligible for 5-year initial contracts with an 80% property tax exemption and 5-year renewal contracts with an 80% property tax exemption.

However, the current posture of the proposed rule changes include overlapping windows, June 24th, 2017 to July 1st, 2018, and June 24th, 2016 to October 21st, 2016, with differing contract terms and exemption amounts as outlined in the preceding two paragraphs. As a result, the contract terms and exemption amounts certain projects may be subject to is unclear if they have filed advanced notifications between June 24th, 2016, and July 1, 2018.

New firms participating under the proposed rule changes would realize a reduced economic benefit relative to previous iterations of the ITEP rules, but will be eligible for 5-year initial contracts with an 80% property tax exemption and 5-year renewal contracts with an 80% property tax exemption. However, to the extent firms subject to the rules included in this NOI are engaged in projects defined as “mega projects,” property tax exemptions up to 93% may be granted.

Lastly, as with current rules, firms are no longer be able to receive tax exemptions for required environmental capital upgrades.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program’s benefits. With regard to employment, the rule changes maintain

the accountability of program applicants to create or retain jobs.

Anne G. Villa  
Undersecretary  
1805#052

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities (LAC 28:XI.Chapter 97)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities*: §9701, Definitions; §9702, Energy; §9703, General Development Principles; §9704, Earth’s Systems; §9705, Elementary School—Prekindergarten-Grade Four; §9706, Waves and Their Applications; §9707, Middle School—Grades Five-Eight; §9708, Inheritance and Variation of Traits; §9709, High School—Grades Nine-Twelve; §9710, Matter and Its Interactions; §9711, Ecosystems: Interactions, Energy, and Dynamics; §9712, Biological Evolution: Unity and Diversity; §9713, Earth’s Place in the Universe; §9714, Earth’s Systems; §9715, Motion and Stability: Forces and Interactions; §9716, From Molecules to Organisms: Structures and Processes; §9717, Ecosystems: Interactions, Energy, and Dynamics; §9718, Heredity: Inheritance and Variation of Traits; §9719, Overview; §9720, Earth’s Systems; §9721, Benchmark Codes; §9722, Energy; §9723, Extended Standard Numbering; §9724, From Molecules to Organisms: Structure and Processes; §9725, Complexity Levels; §9726, Earth’s System; §9727, Science as Inquiry; §9728, Matter and Its Interactions; §9729 Conclusion; §9730, Matter and Energy in Organisms and Ecosystems; §9731, Fourth Grade; §9732, Ecosystems; §9733, Eighth Grade; §9734, Earth’s Systems; §9735, Eleventh Grade; §9736, Matter and Its Interactions; §9737, Motion and Stability: Forces and Interactions; §9738, Energy; §9739, Waves and Their Applications in Technologies for Information Transfer; §9740, Earth’s Place in the Universe; §9741, Earth and Human Activity; §9742, From Molecules to Organisms: Structures and Processes; §9743, Ecosystems: Interactions, Energy, and Dynamics; §9744, Matter and Its Interactions; §9745, Energy; §9747, Earth’s Systems; §9748, Earth and Human Activity; §9749, From Molecules to Organisms: Structures and Processes; §9750, Ecosystems: Interactions, Energy, and Dynamics; §9751, Heredity: Inheritance and Variation of Traits; §9752, Heredity: Biological Evolution: Unity and Diversity; §9753, Matter and Its Interactions; §9754, Energy; §9755, Earth’s Place in the Universe; §9756, Earth’s Systems; §9757, Earth and Human Activity; §9758, From Molecules to Organisms: Structures and Processes; §9759, Heredity: Inheritance and

Variation of Traits; §9760, Biological Evolution: Unity and Diversity; §9761, Matter and Its Interactions; §9762, Motion and Stability: Forces and Interactions; §9763, Energy; §9764, Waves and Their Applications; §9765, Matter and Its Interactions; §9766, Motion and Stability: Forces and Interactions; §9767, Energy; §9768, Motion and Stability: Forces and Interactions; §9769, Energy; §9770, Waves and Their Applications in Technologies for Information Transfer; §9771, Earth's Place in the Universe; §9772, History of Earth; §9773, Space Systems; §9774, Earth's Systems; §9775, Human Sustainability; §9776, From Molecules to Organisms: Structures and Processes; §9777, Ecosystems: Interactions, Energy and Dynamics; §9778, Heredity: Inheritance and Variation of Traits; §9779, Biological Evolution: Unity and Diversity; §9780, Resources and Resource Management; §9781, Environmental Awareness and Protection; §9782, Personal Responsibilities; §9783, Earth's Systems; §9784, Human Sustainability; and §9785, Ecosystems: Interactions, Energy and Dynamics.

The science connectors are pathways for the academic achievement of students with significant cognitive disabilities. The science connectors, which are found in *Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities*, are fully aligned to the Louisiana student standards, and ensure equal access to learning is provided to students with disabilities to the extent possible. This alignment is also required by federal law in the Elementary and Secondary Education Act, known as the Every Student Succeeds Act (ESSA).

## **Title 28**

### **EDUCATION**

#### **Part XI. Accountability/Testing**

##### **Subpart 5. Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities**

#### **Chapter 97. Science**

##### **Subchapter A. Kindergarten**

##### **§9701. Motion and Stability: Forces and Interactions**

A. Identify the effect caused by different strengths or directions of pushes and pulls on the motion of an object.

B. Explain the effect of pushes and pulls on the motion of an object.

C. Identify the effect of different strengths and directions of pushes and pulls on the motion of an object.

D. Compare different strengths or different directions of pushes and pulls on an object.

E. Identify if something designed to push or pull an object makes it move the way it is intended.

F. Identify if something designed to change the speed of an object makes it move the way it is intended.

G. Identify if something designed to change the direction of an object makes it move the way it is intended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

##### **§9702. Energy**

A. Identify examples of sunlight heating different surfaces on Earth.

B. Identify a design structure (e.g., umbrella, canopy, tent) that will reduce the warming caused by the sun.

C. Identify tools and materials that can be used to build a structure that will reduce the warming effect of sunlight on an area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

##### **§9703. From Molecules to Organisms: Structures and Processes**

A. Identify that animals need water and food to live and grow.

B. Identify that plants need water and light to live and grow.

C. Identify patterns of what living things need to survive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

##### **§9704. Earth's Systems**

A. Identify patterns in weather conditions using observations of local weather.

B. Identify examples of how animals change their environments to meet their needs.

C. Identify examples of how plants change their environments to meet their needs.

D. Identify ways that humans can affect the environment in which they live.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

##### **§9705. Earth and Human Activity**

A. Given a model (e.g., representation, diagram, drawing), describe the relationship between the needs of different animals and the places they live (e.g., deer eat buds and leaves and live in forests).

B. Identify how weather forecasting can help people avoid the most serious impacts of severe weather events.

C. Identify different solutions that people can apply to the way they live to reduce the impact on the land, water, air, and other living things.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

##### **Subchapter B. First Grade**

##### **§9706. Waves and Their Applications**

A. Through collaborative investigations, recognize that sounds can cause materials to vibrate.

B. Through collaborative investigations, recognize that vibrating materials can make sound.

C. Use evidence to describe that vibrating materials can make sound.

D. Use evidence to describe that sound can make matter vibrate.

E. Through observations, recognize that objects can be seen only when illuminated by an external light source or when they give off their own light.

F. Through collaborative investigations, recognize that some materials allow light to pass through them.

G. Through collaborative investigations, recognize that some materials allow only some light to pass through them.



H. Through collaborative investigations, recognize that some materials block all the light.

I. When using tools and materials to design and build a device, identify features of devices that people use to send and receive information over long distances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9707. From Molecules to Organisms: Structures and Processes**

A. Identify how animals use their external parts to help them survive, grow, and meet their needs.

B. Identify how plants use their external parts to help them survive, grow, and meet their needs.

C. Identify a design solution to a human problem which is similar to how a plant or animal uses its external parts to help it survive, grow, and meet its needs.

D. Use texts or media to identify behaviors of offspring that help them survive.

E. Use texts or media to identify behaviors between parents and offspring that help the offspring survive.

F. Use texts or media to identify patterns in behavior between parents and offspring that help the offspring survive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9708. Inheritance and Variation of Traits**

A. Make observations to identify a similarity or a difference in an external feature (e.g., shape of ears) between young animals and their parents.

B. Make observations to identify a similarity or a difference in an external feature (e.g., shape of leaves) between young plants and their parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9709. Earth's Place in the Universe**

A. Use observations to describe patterns of movement of the sun, moon, and stars as seen from Earth.

B. Use observations of patterns of movement to predict appearances of the sun or moon.

C. Use observations to make relative comparisons between the amount of daylight in the winter to the amount of daylight in the spring or fall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## **Subchapter C. Second Grade**

### **§9710. Matter and Its Interactions**

A. Use data to describe different kinds of materials by their observable properties (e.g., color, texture).

B. Use data to classify different kinds of materials by their observable properties (e.g., color, texture).

C. Match a property of a material (e.g., hard, flexible, absorbent) to a potential purpose (e.g., hardness of a wooden shelf results in it being better suited for supporting materials than a soft sponge).

D. Identify how a variety of objects can be built up from a small set of pieces.

E. Identify examples of heating substances which cause changes that are sometimes reversible and sometimes not.

F. Identify examples of cooling substances which cause changes that are sometimes reversible and sometimes not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9711. Ecosystems: Interactions, Energy, and Dynamics**

A. Use data to describe that plants need water and light to grow.

B. Identify that plants need animals to move their seeds around.

C. Identify a simple model that mimics the function of an animal in dispersing seeds or pollinating plants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9712. Biological Evolution: Unity and Diversity**

A. Make observations to explain that different kinds of living things live in different habitats on land and in water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9713. Earth's Place in the Universe**

A. Use evidence to understand that some Earth events happen quickly and can be observed (e.g., flood, volcano eruption, earthquake, or erosion of soil).

B. Use evidence to understand that some Earth events happen slowly (e.g., erosion or weathering of rocks).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9714. Earth's Systems**

A. Identify a solution (e.g., using shrubs, grass, or trees) to slow or prevent wind from changing the shape of the land.

B. Identify a solution (e.g., using shrubs, grass, or trees) to slow or prevent water from changing the shape of the land.

C. Use a model to identify land features and bodies of water (e.g., hill, lake) in an area using a model.

D. Use information to identify that water is found in many types of places.

E. Use information to identify that that water exists as solid ice and in liquid form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## **Subchapter D. Third Grade**

### **§9715. Motion and Stability: Forces and Interactions**

A. Identify ways to change the motion of an object (e.g., number, size, or direction of forces).

B. Describe how objects in contact exert forces on each other.

C. Describe the patterns of an object's motion in various situations (e.g., a pendulum swinging, a ball moving on a curved track, a magnet repelling another magnet).

D. Predict future motion of an object given its pattern of motion.

E. Ask questions to identify cause and effect relationships of magnetic interactions between two objects not in contact with each other (e.g., how the orientation of magnets affects the direction of the magnetic force).

F. Ask questions to identify cause and effect relationships of electric interactions (e.g., the force on hair from an electrically charged balloon) between two objects not in contact with each other (e.g., how the distance between objects affects the strength of the force).

G. Identify and describe the scientific ideas necessary for solving a given problem about magnets (e.g., size of the force depends on the properties of objects, distance between the objects, and orientation of magnetic objects relative to one another).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9716. From Molecules to Organisms: Structures and Processes**

A. Identify that organisms have unique and diverse life cycles.

B. Identify a common pattern between models of different life cycles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9717. Ecosystems: Interactions, Energy, and Dynamics**

A. Describe that animals within a group help the group obtain food for survival, defend themselves, and survive changes in their ecosystem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9718. Heredity: Inheritance and Variation of Traits**

A. Identify similarities in the traits of a parent and the traits of an offspring.

B. Identify that characteristics of organisms are inherited from their parents.

C. Identify variations in similar traits in a group of similar organisms.

D. Identify examples of inherited traits that vary between organisms of the same type.

E. Identify a cause and effect relationship between an environmental factor and its effect on a given variation in a trait (e.g., not enough water produces plants that have fewer flowers than plants that had more water available).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9719. Biological Evolution: Unity and Diversity**

A. Identify that fossils represent plants and animals that lived long ago.

B. Identify that fossils provide evidence about the environments in which organisms lived long ago (e.g., fossilized seashells indicate shelled organisms that lived in aquatic environments).

C. Identify features and characteristics that enable an organism to survive in a particular environment.

D. Identify features and characteristics that increase an organism's chances of finding mates.

E. Identify features and characteristics that increase an organism's chances of reproducing.

F. Identify changes in a habitat that would cause some organisms to move to new locations.

G. Identify changes in a habitat that would cause some organisms to die.

H. Identify evidence that supports a claim that changes in habitats affect the organisms living there.

I. Identify a solution to a problem that is caused when the environment changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9720. Earth's Systems**

A. Use data to describe observed weather conditions (e.g., temperature, precipitation, wind direction) during a season.

B. Use data to predict weather conditions (e.g., temperature, precipitation, wind direction) during a season.

C. Identify and describe climates in different regions of the world (e.g., equatorial, polar).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9721. Earth and Human Activity**

A. Identify the positive impact of a solution humans can take to reduce the impact of weather-related hazards (e.g., barriers to prevent flooding).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **Subchapter E. Fourth Grade**

##### **§9722. Energy**

A. Identify that moving objects contain energy.

B. Demonstrate that objects moving faster possess more energy than objects moving slower.

C. Identify examples of how energy can be moved from place to place (i.e., through sound or light traveling; by electrical currents; heat passing from one object to another).

D. Identify the change in energy or the change in objects' motions when objects collide (e.g., speeds as objects interact, direction).

E. Relate an example that demonstrates that energy can be converted from one form to another form (e.g., electric circuits that convert electrical energy into light, motion, sound or heat).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

##### **§9723. Waves and Their Applications in Technologies for Information Transfer**

A. Describe the properties of waves using a model (e.g., drawings, diagrams) to show amplitude (height) and wavelength.

B. Identify relationships involving wave amplitude, wavelength, and the motion of an object (e.g., when the amplitude increases, the object moves more).

C. Identify amplitude as a measure of energy in a wave.

D. Identify wavelength as the distance between a point on one wave and the identical point on the next wave.

E. Arrange a model to show that light can be seen when light reflected from its surface enters the eye.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9724. From Molecules to Organisms: Structure and Processes**

A. Identify external macroscopic structures (e.g., bird beaks, eyes, feathers, roots, needles on a pine tree) that support growth, survival, behavior, and reproduction of organisms.

B. Identify internal structures (e.g., heart, muscles, bones) that support growth, survival, behavior, and reproduction of organisms.

C. Identify that sense receptors provide different kinds of information, which is processed by the brain.

D. Identify how animals use their sense receptors to respond to different types of information (e.g., sound, light, odor, temperature) in their surroundings with behaviors that help them survive.

E. Identify how animals use their memories to help them survive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9725. Earth's Place in the Universe**

A. Identify rock formations that show how the Earth's surface has changed over time (e.g., change following earthquakes).

B. Identify older fossils as being found in deeper, older rock layers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9726. Earth's System**

A. Use data to compare differences in the shape of the land due to the effects of weathering or erosion.

B. Identify how living things affect the shape of the land.

C. Use maps to locate different land and water features of Earth.

D. Use maps to determine that earthquakes and volcanoes often occur along the boundaries between continents.

E. Identify how plants affect the environment (e.g., some have roots that can stabilize or destabilize the soil).

F. Identify how animals affect the environment (e.g., they disturb rocks, soil, and sediment; some build dams or nests).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9727. Earth and Human Activity**

A. Identify the origins of the natural sources humans use for energy and fuel.

B. Identify environmental effects associated with the use of a given energy resource.

C. Describe solutions to reduce the impact of a natural Earth process (e.g., earthquake, flood, volcanic activity) on humans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **Subchapter F. Fifth Grade**

#### **§9728. Matter and Its Interactions**

A. Identify in a model (e.g., picture, diagram) which shows that all matter can be broken down into smaller and smaller pieces until they are too small to be seen by human eyes.

B. Identify using measurements that the total weight of matter is conserved when it changes form.

C. Identify using measurements that the total weight of matter is conserved before and after they are heated, cooled, or mixed.

D. Identify that materials can be classified based on a variety of observable physical properties (e.g., shape, texture, buoyancy, color, magnetism, solubility).

E. Classify materials (e.g., shape, texture, buoyancy, color, magnetism, solubility) by measurable physical properties.

F. Identify that when two or more different substances are mixed, a new substance with different properties may be formed.

G. Identify the changes that occur when two or more substances are mixed using evidence provided from data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9729. Motion and Stability: Forces and Interactions**

A. Identify that the gravitational force exerted by Earth on objects is directed down.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9730. Matter and Energy in Organisms and Ecosystems**

A. Identify that the energy in animals' food was once energy from the sun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9731. From Molecules to Organisms: Structures and Processes**

A. Identify that plants acquire material for growth chiefly from air and water, not from soil.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9732. Ecosystems**

A. Identify a model that shows the movement of matter (e.g., plant growth, eating, composting) through living things.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9733. Earth's Place in the Universe

A. Identify that the sun appears larger and brighter than other stars because the sun is much closer to Earth than other stars.

B. Describe similarities and differences in the timing of observable changes in shadows.

C. Describe similarities and differences in the timing of observable changes in day and night.

D. Describe similarities and differences in the timing of observable changes in the appearance of stars that are visible only in particular months

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9734. Earth's Systems

A. Describe that the Earth's major systems interact and affect Earth's surface materials and processes.

B. Determine that the majority of water on Earth is found in the oceans as salt water and most of the Earth's fresh water is stored in glaciers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9735. Earth and Human Activity

A. Identify ways people can help protect the Earth's resources and environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## Subchapter G. Sixth Grade

### §9736. Matter and Its Interactions

A. Identify a model that shows an atom's nucleus is made of protons and neutrons, and is surrounded by electrons.

B. Identify a model that shows individual atoms of the same or different types that repeat to form compounds (e.g., sodium chloride).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9737. Motion and Stability: Forces and Interactions

A. Describe the motion of two colliding objects in terms of the strength of the force and the relationship of action and reaction forces given a model or scenario.

B. Develop a solution to a problem involving the motion of two colliding objects.

C. Identify using provided data, that a change in an object's motion is due to the mass of an object and the forces acting on that object.

D. Identify that electricity can be used to produce magnetism, or magnetism can be used to make electricity.

E. Examine data of objects (e.g., a model that demonstrates that a piece of metal, when magnetized by electricity, can pick up many times its own weight) to identify cause and effect relationships that affect electromagnetic forces.

F. Using a chart displaying the mass of those objects and the strength of interaction, compare the magnitude of gravitational force on interacting objects of different mass (e.g., the Earth and the sun).

G. Evaluate a change in the strength of a force (i.e., electric and magnetic) using data.

H. Identify evidence that fields exist between objects exerting forces on each other even though the objects are not in contact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9738. Energy

A. Use graphical displays of data to describe the relationship of kinetic energy to the mass of an object and to the speed of an object.

B. Describe, using models, how changing distance changes the amount of potential energy stored in the system (e.g., carts at varying positions on a hill).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9739. Waves and Their Applications in Technologies for Information Transfer

A. Identify how the amplitude of a wave is related to the energy in a wave using a mathematical or graphical representation.

B. Describe, using a model, how sound waves are reflected, absorbed, or transmitted through various materials (e.g., water, air, glass).

C. Describe, using a model, how light waves are reflected, absorbed, or transmitted through various materials (e.g., water, air, glass).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9740. Earth's Place in the Universe

A. Use an Earth-sun-moon model to show that the Earth-moon system orbits the sun once an Earth year and the orbit of the moon around Earth corresponds to a month.

B. Use an Earth-sun-moon model to explain eclipses of the sun and the moon.

C. Use an Earth-sun-moon model to explain how variations in the amount of the sun's energy hitting Earth's surface results in seasons.

D. Use a model to identify the solar system as one of many systems orbiting the center of the larger system of the Milky Way galaxy, which is one of many galaxy systems in the universe.

E. Use a model to describe the relationships and interactions between components of the solar system as a collection of many varied objects held together by gravity.

F. Use data (e.g., statistical information, drawings and photographs, and models) to determine similarities and differences among solar system objects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9741. Earth and Human Activity**

A. Identify changes that human populations have made to Earth's natural systems using a variety of resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9742. From Molecules to Organisms: Structures and Processes**

A. Identify that living things may be made of one cell or many different numbers and types of cells.

B. Using a model(s), identify the function of a cell as a whole.

C. Using a model(s), identify special structures within cells are responsible for particular functions.

D. Using a model(s), identify the components of a cell.

E. Using a model(s), identify the functions of components of a cell.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9743. Ecosystems: Interactions, Energy, and Dynamics**

A. Recognize data that shows growth of organisms and population increases are limited by access to resources.

B. Identify factors (e.g., resources, climate or competition) in an ecosystem that influence growth in populations of organisms.

C. Use an explanation of interactions between organisms in an ecosystem to identify examples of competitive, predatory, or symbiotic relationships.

D. Using a model(s), describe energy transfer between producers and consumers in an ecosystem using a model (e.g., producers provide energy for consumers).

E. Using a model(s), describe energy transfer between producers and consumers in an ecosystem using a model (e.g., producers provide energy for consumers).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## **Subchapter H. Seventh Grade**

### **§9744. Matter and Its Interactions**

A. Using data, identify changes that occur after a chemical reaction has taken place (e.g., change in color occurs, gas is created, heat or light is given off or taken in).

B. Use drawings and diagrams to identify that adding or removing thermal energy increases or decreases particle motion until a change of state occurs.

C. Use a model to identify a chemical reaction in which the mass of the reactants is shown to be equal to the mass of the products.

D. Use a model to show how the total number of atoms does not change in a chemical reaction and thus mass is conserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9745. Energy**

A. Using examples and data measurements, describe the relationship between different masses of the same substance and the change in average kinetic energy when thermal energy is added to or removed from the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9747. Earth's Systems**

A. Using a model(s), identify components in a model of water cycling among land, ocean, and atmosphere, and recognize how it is propelled by sunlight and gravity.

B. Using data, identify how water influences weather and weather patterns through atmospheric, land, and oceanic circulation.

C. Using data, identify examples of how the sun drives all weather patterns on Earth (e.g., flow of energy that moves through Earth's land, air, and water).

D. Using a model(s), identify that as the sun's energy warms the air over the land (expands and rises), the air over the ocean (cooler air) rushes in to take its place and is called wind (sea breeze).

E. Using a model(s), identify that weather and climate vary with latitude, altitude, and regional geography.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9748. Earth and Human Activity**

A. Identify evidence of the effects of human activities on changes in global temperatures over the past century using a variety of resources (e.g., tables, graphs, and maps of global and regional temperatures; atmospheric levels of gases, such as carbon dioxide and methane; and rates of human activities).

B. Using a variety of resources, ask questions or make observations about how the effects of human activities have changed global temperatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9749. From Molecules to Organisms: Structures and Processes**

A. Identify that the body is a system of multiple interacting subsystems.

B. Identify evidence which supports a claim about how the body is composed of various levels of organization for structure and function which includes cells, tissues, organs, organ systems, and organisms using models or diagrams.

C. Use a scientific explanation about photosynthesis to identify the movement of matter and flow of energy as plants use the energy from light to make sugars.

D. Use a model to identify the outcome of the process of breaking down food molecules (e.g., sugar) as the release of energy, which can be used to support other processes within the organism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9750. Ecosystems: Interactions, Energy, and Dynamics**

A. Identify a design project that shows the stability of an ecosystem's biodiversity is the foundation of a healthy, functioning ecosystem.

B. Using evidence, identify the outcome of changes in physical or biological components of an ecosystem to populations of organisms in that ecosystem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9751. Heredity: Inheritance and Variation of Traits**

A. Using a model(s), identify that in asexual reproduction identical inherited traits are passed from parents to offspring.

B. Using a model(s), identify that in sexual reproduction a variety of inherited traits are passed from parents to offspring and lead to differences in offspring (e.g., eye color).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9752. Heredity: Biological Evolution: Unity and Diversity**

A. Identify a similarity or difference in an external feature (e.g., shape of ears on animals or shape of leaves on plants) between young plants and animals and their parents.

B. Describe the relationship between genetic variation and the success of organisms in a specific environment (e.g., individual organisms that have genetic variations and traits that are disadvantageous in a particular environment will be less likely to survive, and those traits will decrease from generation to generation due to natural selection).

C. Identify ways in which technologies (e.g., artificial selection for breeding of certain plants and animals) have changed the way humans influence the inheritance of desired traits in plants and animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## **Subchapter I. Eighth Grade**

### **§9753. Matter and Its Interactions**

A. Using a model(s), identify that an atom's nucleus as made of protons and neutrons and is surrounded by electrons.

B. Using a model(s), identify that individual atoms of the same or different types that repeat to form extended structures (e.g., sodium chloride).

C. Compare and contrast characteristics of natural and synthetic materials (e.g., fibers) from provided information (e.g., text, media, visual displays, data).

D. Identify ways in which natural resources undergo a chemical process to form synthetic materials (e.g., medicine, textiles, clothing) which impact society.

E. Identify a chemical process that releases or absorbs thermal energy (e.g., dissolving ammonium chloride or calcium chloride) which, given the features of a problem, may provide a solution.

F. Identify a way to test or modify a device that either releases or absorbs thermal energy by chemical processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9754. Energy**

A. Use information (e.g., graph, model) to identify a device (e.g., foam cup, insulated box) that either minimizes or maximizes thermal energy transfer (e.g., keeping liquids hot or cold).

B. Using information from graphical displays of data and models, describe the change in the kinetic energy of an object as energy transferred to or from an object.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9755. Earth's Place in the Universe**

A. Sequence the relative order of events from Earth's history shown by rock strata and patterns of layering (organize was more complex as a task/term than sequence).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9756. Earth's Systems**

A. Identify relationships between components in a model showing the cycling of energy flows and matter within and among Earth's systems, including the sun and Earth's interior as primary energy sources.

B. Identify examples of processes to explain that change Earth's surface at varying time and spatial scales that can be large (e.g., plate motions) or small (e.g., landslides).

C. Using graphical displays of data, identify how the shapes of the continents (e.g., fit like a jigsaw puzzle) and fossil comparisons (e.g., fit together) along the edges of continents to demonstrate lithospheric plate movement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9757. Earth and Human Activity**

A. Identify explanations of the uneven distributions of Earth's minerals, energy, and groundwater resources due to past and current geoscience processes or by removal of resources.

B. Use maps, charts, and images of natural hazards to look for patterns in past occurrences of catastrophic events in each of two regions to predict which location may receive a future similar catastrophic event.

C. Identify technologies that mitigate the effects of natural hazards (e.g., the design of buildings and bridges to resist earthquakes, storm shelters for tornados, levees along rivers to prevent flooding).

D. Using data from a design solution for minimizing a human impact on the environment, identify limitations of the solution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9758. From Molecules to Organisms: Structures and Processes**

A. Identify behaviors animals engage in (e.g., vocalization) that increase the likelihood of reproduction.

B. Identify specialized plant structures (e.g., bright flower parts) that increase the likelihood of reproduction.

C. Identify a scientific explanation for how environmental factors (e.g., availability of light, space, water, size of habitat) affect the growth of animals and plants.

D. Identify a scientific explanation for how genetic factors (e.g., specific breeds of plants and animals and their typical sizes) affect the growth of animals and plants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9759. Heredity: Inheritance and Variation of Traits**

A. Use a model to explain how genetic variations in specific traits may occur as organisms pass on their genetic material from one generation to the next, along with small changes

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9760. Biological Evolution: Unity and Diversity**

A. Use data to identify that fossils of different animals that lived at different times are placed in chronological order (i.e., fossil record) and located in different sedimentary layers.

B. Recognize that similarities and differences in external structures can be used to infer evolutionary relationships between living and fossil organisms.

C. Identify an explanation of the evolutionary relationships between modern and fossil organisms.

D. Identify patterns (i.e., pictorial displays, representations, data) in the embryological development as evidence of relationships among species.

E. Analyze numerical data sets that represent a proportional relationship between some change in the environment and corresponding changes in genetic variation (i.e., traits) over time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## **Subchapter J. Physical Science**

### **§9761. Matter and Its Interactions**

A. Identify the periodic table as a model to use to predict the properties of elements.

B. Identify that the periodic table was created based on the patterns of electrons in the outermost energy level of atoms.

C. Identify that the number of electrons in the outermost energy level of atoms impacts the behavior of the element.

D. Identify the periodic table as a model that predicts the number of electrons and other subatomic particles.

E. Identify an explanation for the outcome of a simple chemical reaction based on the outermost electron states of atoms.

F. Identify an explanation for the outcome of a simple chemical reaction based on trends in the periodic table.

G. Construct an explanation for the outcome of a simple chemical reaction based on the chemical properties of the elements involved.

H. Identify a chemical equation, and identify the reactants and products which support the claim that matter (i.e., atoms) is neither created nor destroyed in a chemical reaction.

I. Identify a mathematical representation (e.g., table, graph) or pictorial depictions that illustrates the claim that mass is conserved during a chemical reaction.

J. Identify models that illustrate nuclear processes (i.e., fusion, fission, and radioactive decays), involve the release or absorption of energy.

K. Contrast changes during the processes of alpha, beta, or gamma radioactive decay using graphs or pictorial depictions of the composition of the nucleus of the atom and the energy released.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9762. Motion and Stability: Forces and Interactions**

A. Predict changes in the motion of a macroscopic object, such as a falling object, an object rolling down a ramp, or a moving object being pulled by a constant force using data (e.g., tables or graphs of position or velocity as a function of time for an object subject to a net unbalanced force).

B. Identify an example of the law of conservation of momentum (e.g., in a collision, the momentum change of an object is equal to and opposite of the momentum change of the other object) represented using graphical or visual displays (e.g., pictures, pictographs, drawings, written observations, tables, charts).

C. Evaluate a device (e.g., football helmet or a parachute) designed to minimize force by comparing data (i.e., momentum, mass, velocity, force, or time).

D. Identify situations and provide evidence where an electric current is producing a magnetic field.

E. Identify situations and provide evidence where a magnetic field is producing an electric current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9763. Energy**

A. Identify that two factors, an object's mass and height above the ground, affect gravitational potential energy (i.e., energy stored due to position of an object above Earth) at the macroscopic level.

B. Identify that the mass of an object and its speed determine the amount of kinetic energy the object possesses.

C. Identify the forms of energy that will be converted by a device that converts one form of energy into another form of energy.

D. Identify steps in a model of a device showing the transformations of energy that occur (e.g., solar cells, solar ovens, generators, turbines).

E. Describe constraints to the design of the device which converts one form of energy into another form of energy (e.g., cost or efficiency of energy conversion).

F. Identify the temperatures of two liquids of different temperature before mixing and after combining to show uniform energy distribution.

G. Investigate the transfer of thermal energy when two substances are combined within a closed system.

H. Use a model to identify the cause and effect relationships between forces produced by electric or magnetic fields and the change of energy of the objects in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9764. Waves and Their Applications**

A. Qualitatively describe cause and effect relationships between changes in wave speed and type of media through which the wave travels using mathematical and graphical representations.

B. Identify examples that illustrate the relationship between the frequency and wavelength of a wave.

C. Identify evidence that the speed of a wave depends on the media through which it travels.

D. Recognize the relationship between the damage to living tissue from electromagnetic radiation and the energy of the radiation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **Subchapter K. Chemistry**

#### **§9765. Matter and Its Interactions**

A. Identify the periodic table as a model to use to predict the properties of elements.

B. Identify that the periodic table was created based on the patterns of electrons in the outermost energy level of atoms.

C. Identify that the number of electrons in the outermost energy level of atoms impacts the behavior of the element.

D. Identify the periodic table as a model that predicts the number of electrons and other subatomic particles.

E. Identify an explanation for the outcome of a simple chemical reaction based on the outermost electron states of atoms.

F. Identify an explanation for the outcome of a simple chemical reaction based on trends in the periodic table.

G. Construct an explanation for the outcome of a simple chemical reaction based on the chemical properties of the elements involved.

H. Identify bulk properties of substances (i.e., melting point, boiling point, and surface tension).

I. Identify that electrical forces within and between atoms can keep particles close together.

J. Conduct an experiment to gather evidence of the strength of electrical forces between particles.

K. Determine whether energy is released or absorbed in a chemical reaction system using various types of models (e.g., drawings, graphs, etc.).

L. Identify the effects of changing the temperature of the reacting particles at the rate at which a simple reaction (i.e., two reactants) occurs using a model (e.g., a table of data) of the number and energy of collisions between particles.

M. Identify the effects of changing the concentration of the reacting particles at the rate at which a simple reaction (i.e., two reactants) occurs using a model (e.g., a table of data) of the number and energy of collisions between particles.

N. Identify a change in one variable (i.e., temperature, concentration, pressure) of a chemical equation that would produce increased amounts of products at equilibrium.

O. Identify a chemical equation, and identify the reactants and products which support the claim that matter (i.e., atoms) is neither created nor destroyed in a chemical reaction.

P. Identify a mathematical representation (e.g., table, graph) or pictorial depictions that illustrates the claim that mass is conserved during a chemical reaction.

Q. Identify models that illustrate nuclear processes (i.e., fusion, fission, and radioactive decays), involve the release or absorption of energy.

R. Contrast changes during the processes of alpha, beta, or gamma radioactive decay using graphs or pictorial depictions of the composition of the nucleus of the atom and the energy released.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9766. Motion and Stability: Forces and Interactions**

A. Communicate that different materials have different molecular structures and properties which determine different functioning of the material (e.g., flexible, but durable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

#### **§9767. Energy**

A. Identify a model showing the change in the energy of one component in a system compared to the change in energy of another component in the system.

B. Identify a model showing the change in energy of one component in a system when the change in energy of the other component(s) and energy flows in and out of the system are known.

C. Identify the forms of energy that will be converted by a device that converts one form of energy into another form of energy.

D. Identify steps in a model of a device showing the transformations of energy that occur (e.g., solar cells, solar ovens, generators, turbines).

E. Describe constraints to the design of the device which converts one form of energy into another form of energy (e.g., cost or efficiency of energy conversion).

F. Identify the temperatures of two liquids of different temperature before mixing and after combining to show uniform energy distribution.

G. Investigate the transfer of thermal energy when two substances are combined within a closed system.

H. Identify the relationship between increasing energy demand and the technologies developed to meet these needs.

I. Identify an alternative energy system with minimal social and environmental consequences.

J. Evaluate a claim about nuclear energy as an alternative source of energy as opposed to other forms of energy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:



## Subchapter L. Physics

### §9768. Motion and Stability: Forces and Interactions

A. Predict changes in the motion of a macroscopic object, such as a falling object, an object rolling down a ramp, or a moving object being pulled by a constant force using data (e.g., tables or graphs of position or velocity as a function of time for an object subject to a net unbalanced force).

B. Identify an example of the law of conservation of momentum (e.g., in a collision, the momentum change of an object is equal to and opposite of the momentum change of the other object) represented using graphical or visual displays (e.g., pictures, pictographs, drawings, written observations, tables, charts).

C. Evaluate a device (e.g., football helmet or a parachute) designed to minimize force by comparing data (i.e., momentum, mass, velocity, force, or time).

D. Use Newton's law of universal gravitation as a mathematical model to qualitatively describe or predict the effects of gravitational forces in systems with two objects.

E. Use Coulomb's law to qualitatively describe or predict the electrostatic forces in systems with two objects.

F. Identify situations and provide evidence where an electric current is producing a magnetic field.

G. Identify situations and provide evidence where a magnetic field is producing an electric current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9769. Energy

A. Identify a model showing the change in the energy of one component in a system compared to the change in energy of another component in the system.

B. Identify a model showing the change in energy of one component in a system when the change in energy of the other component(s) and energy flows in and out of the system are known.

C. Identify that two factors, an object's mass and height above the ground, affect gravitational potential energy (i.e., energy stored due to position of an object above Earth) at the macroscopic level.

D. Identify that the mass of an object and its speed determine the amount of kinetic energy the object possesses.

E. Identify the forms of energy that will be converted by a device that converts one form of energy into another form of energy.

F. Identify steps in a model of a device showing the transformations of energy that occur (e.g., solar cells, solar ovens, generators, turbines).

G. Describe constraints to the design of the device which converts one form of energy into another form of energy (e.g., cost or efficiency of energy conversion).

H. Identify the temperatures of two liquids of different temperature before mixing and after combining to show uniform energy distribution.

I. Investigate the transfer of thermal energy when two substances are combined within a closed system.

J. Use a model to identify the cause and effect relationships between forces produced by electric or magnetic fields and the change of energy of the objects in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9770. Waves and Their Applications in Technologies for Information Transfer

A. Qualitatively describe cause and effect relationships between changes in wave speed and type of media through which the wave travels using mathematical and graphical representations.

B. Identify examples that illustrate the relationship between the frequency and wavelength of a wave.

C. Identify evidence that the speed of a wave depends on the media through which it travels.

D. Identify a model or description of electromagnetic radiation as a wave model.

E. Identify a model or description of electromagnetic radiation as a particle model.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## Subchapter M. Earth Science

### §9771. Earth's Place in the Universe

A. Describe components of a model illustrating that the sun shines because of nuclear fusion reactions which release light and heat energy which make life on Earth possible.

B. Communicate by using models that solar activity creates elements through nuclear fusion.

C. Recognize that objects in the solar system orbit the sun and have an orderly motion (e.g., elliptical paths around the sun).

D. Relate Earth's orbital characteristics to other bodies in the solar system.

E. Use a mathematical or computational representation to predict the motion of orbiting objects in the solar system.

F. Explain the relationship between the motion of continental plates and how materials of different ages are arranged on Earth's surface.

G. Relate/evaluate evidence of past and/or current movements in Earth's crust (plate tectonics) with the ages of crustal rocks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9772. History of Earth

A. Identify ancient Earth materials, lunar rocks, asteroids, and meteorites as sources of evidence scientists use to understand Earth's early history.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §9773. Space Systems

A. Identify that the universe is expanding and must have been smaller in the past based on astronomical evidence (i.e., light spectra, motion of distant galaxies, and composition of matter in the universe).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## **§9774. Earth's Systems**

A. Use a model of Earth to identify that the motion of the mantle and its plates occurs primarily through thermal convection, which is primarily driven by radioactive decay within Earth's interior.

B. Identify relationships, using a model, of how the Earth's surface is a complex and dynamic set of interconnected systems (i.e., geosphere, hydrosphere, atmosphere, and biosphere).

C. Use a model of Earth to identify that the motion of the mantle and its plates occurs primarily through thermal convection, which is primarily driven by radioactive decay within Earth's interior.

D. Identify different causes of climate change and results of those changes with respect to the Earth's surface temperatures, precipitation patterns or sea levels over a wide range of temporal and spatial scales using a model.

E. Identify a connection between the properties of water and its effects on Earth materials.

F. Investigate the effects of water on Earth materials and/or surface processes.

G. Use a model of photosynthesis to identify that carbon is exchanged between living and nonliving systems.

H. Use a model of cellular respiration to identify that carbon is exchanged between living and nonliving systems.

I. Develop and/or use a quantitative model to identify relative amount of and/or the rate at which carbon is transferred among hydrosphere, atmosphere, geosphere, and biosphere.

J. Identify examples of coevolution of Earth's systems and the evolution of life on Earth.

K. Identify evidence (e.g., causal links and/or feedback mechanisms between changes in the biosphere and changes in Earth's other systems) in an argument that there is simultaneous coevolution of Earth's systems and life on Earth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## **§9775. Human Sustainability**

A. Explain the relationship between human activity (e.g., population size, where humans live, types of crops grown) and changes in the amounts of natural resources using evidence.

B. Explain the relationship between human activity (e.g., population size, where humans live, types of crops grown) and changes in the occurrence of natural hazards using evidence.

C. Identify a solution that demonstrates the most preferred cost-benefit ratios for developing, managing, and utilizing energy and mineral resources (i.e., conservation, recycling, and reuse of resources).

D. Compare design solutions for developing, managing, and/or utilizing energy or mineral resources.

E. Use numerical data to determine the effects of a conservation strategy to manage natural resources and to sustain human society and plant and animal life.

F. Connect a technological solution (e.g., wet scrubber; baghouse) to its outcome (e.g., clean air) and its outcome to the human activity impact that it is reducing (e.g., air pollution).

G. Use geoscience data to determine the relationship between a change in climate (e.g., precipitation, temperature) and its impact in a region.

H. Use representations to describe the relationships among Earth systems and how those relationships are being modified due to human activity (e.g., increase in atmospheric carbon dioxide, increase in ocean acidification, effects on organisms in the ocean (coral reef), carbon cycle of the ocean, possible effects on marine populations).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## **Subchapter N. Life Science**

### **§9776. From Molecules to Organisms: Structures and Processes**

A. Relate DNA molecules to the way cells store and use information to guide their functions.

B. Relate groups of specialized cells (e.g., heart cells, nerve cells, muscle cells, epithelial cells, fat cells, blood cells) within organisms to the performance of essential functions of life.

C. Identify evidence supporting an explanation of how a substance called DNA carries genetic information in all organisms which codes for the proteins that are essential to an organism.

D. Using model(s), identify that different systems of the body carry out essential functions (e.g., digestive system, respiratory system, circulatory system, nervous system).

E. Using model(s), identify the hierarchical organization of systems that perform specific functions within multicellular organisms.

F. Identify how different organisms react (e.g., heart rate, body temperature) to changes in their external environment.

G. Identify examples of how organisms use feedback mechanisms to maintain dynamic homeostasis.

H. Identify how growth and/or maintenance (repair/replacement) occurs when cells multiply (i.e., mitosis) using a model.

I. Identify model of photosynthesis, which shows the conversion of light energy to stored chemical energy.

J. Using a model(s), identify how organisms take in matter and rearrange the atoms in chemical reactions to form different products allowing for growth and maintenance.

K. Using a model(s), identify respiration as the transfer of stored energy to the cell to sustain life's processes (i.e., energy to muscles or energy for maintaining body temperature).

L. Identify the process by which a virus uses a host cell's functions to make new viruses.

M. Recognize that most bacteria reproduce asexually resulting in two cells exactly like the parent cell.

N. Identify ways to protect against infectious diseases to maintain a body's health (e.g., eat nutritious food, washing hands, rest, exercise, etc.).

O. Identify treatments and/or prevention of viral and/or bacterial infections (e.g., antibiotics and vaccines).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9777. Ecosystems: Interactions, Energy and Dynamics**

A. Recognize that the carrying capacities of ecosystems are related to the availability of living and nonliving resources and challenges (e.g., predation, competition, disease).

B. Use a graphical representation to identify carrying capacities in ecosystems as limits to the numbers of organisms or populations they can support.

C. Use a graphical or mathematical representation to identify the changes in the amount of matter as it travels through a food web.

D. Use a graphical or mathematical representation to identify the changes in the amount of energy as it travels through a food web.

E. Use evidence to identify how modest biological or physical changes versus extreme changes affect stability and change (e.g., number and types of organisms) in ecosystems.

F. Evaluate explanations of how living things in an ecosystem are affected by changes in the environment (e.g., changes to the food supply, climate change, or the introduction of predators).

G. Evaluate explanations of how interactions in ecosystems maintain relatively stable conditions, but changing conditions may result in a new ecosystem.

H. Describe how people can help protect the Earth's environment and biodiversity (e.g., preserving ecosystems) and how a human activity would threaten Earth's environment and biodiversity (e.g., pollution, damaging habitats, over hunting).

I. Evaluate or refine a solution to changes in an ecosystem (biodiversity) resulting from a human activity.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9778. Heredity: Inheritance and Variation of Traits**

A. Identify that DNA molecules in all cells contain the instructions for traits passed from parents to offspring.

B. Identify appropriate questions about the relationships between DNA and chromosomes and how traits are passed from parents to offspring.

C. Identify a model showing evidence that parents and offspring may have different traits.

D. Identify that meiosis is a process which distributes genetic material among the new cells (i.e., gametes) produced, which results in genetic variation.

E. Identify that when DNA makes a copy of itself, sometimes errors occur that may lead to genetic variations.

F. Identify examples of mutations in DNA caused by environmental factors.

G. Use evidence to support a claim about a source of inheritable genetic variations.

H. Calculate the probability (e.g., two out of four) of a particular trait in an offspring based on a completed Punnett square.

I. Identify examples, using data, of environmental factors which affect the expression of traits, and so then affect the probability of occurrences of traits in a population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### **§9779. Biological Evolution: Unity and Diversity**

A. Identify patterns (e.g., DNA sequences, fossil records) as evidence to a claim of common ancestry.

B. Recognize that as a species grows in number, competition for limited resources also increases.

C. Recognize that different individuals have specific traits that give advantages (e.g., survive and reproduce at higher rates) over other individuals in the species.

D. Identify how evolution may be a result of genetic variation through mutations and sexual reproduction in a species that is passed on to their offspring.

E. Use patterns in data to identify how heritable variations in a trait may lead to an increasing proportion of individuals within a population with that trait (i.e., an advantageous characteristic).

F. Use data to provide evidence for how specific biotic or abiotic differences in ecosystems (e.g., ranges of seasonal temperature, acidity, light, geographic barriers) support the claim that organisms with an advantageous heritable trait are better able to survive over time.

G. Identify the relationship between naturally occurring or human-induced changes in the environment (e.g., drought, flood, deforestation, fishing, application of fertilizers) and the expression of traits in a species (e.g., peppered moth studies).

H. Identify the relationship between naturally occurring or human-induced changes in the environment (e.g., drought, flood, deforestation, fishing, application of fertilizers) and the emergence of new species over time.

I. Identify that species become extinct because they can no longer survive and reproduce given changes in the environment.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## **Subchapter O. Environmental Science**

### **§9780. Resources and Resource Management**

A. Identify factors (e.g., human activity, population size, types of crops grown) that affect sustainable development in Louisiana.

B. Identify factors (e.g., human activity, population size, types of crops grown) that affect natural resource management in Louisiana.

C. Identify the effectiveness of management practices for one of Louisiana's natural resources related to social factors over the past 50 years.

D. Identify the effectiveness of management practices for one of Louisiana's natural resources related to economic factors over the past 50 years.

E. Identify the effectiveness of management practices for one of Louisiana's natural resources related to technological factors over the past 50 years.

F. Identify the effectiveness of management practices for one of Louisiana's natural resources related to political factors over the past 50 years.

G. Identify the risk-benefit values of implemented actions using data for selected environmental issues.

H. Identify the risk-benefit values of implemented practices using data for selected environmental issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§9781. Environmental Awareness and Protection**

A. Use data or qualitative scientific and technical information to evaluate a solution to limit a non-point source pollution (e.g., land or urban runoff, abandoned mines) into state waterways.

B. Recognize the relationship between pollution and its effect on an organism's population size.

C. Predict the effects that pollution as a limiting factor has on an organism's population density using a model (e.g., mathematical, diagrams, simulations).

D. Evaluate evidence supporting an argument regarding negative impacts of introduced organisms (e.g., zebra mussel, fire ant, nutria) have on Louisiana's native species.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§9782. Personal Responsibilities**

A. Evaluate evidence supporting the positive consequences of using disposable resources versus reusable resources.

B. Evaluate evidence supporting the negative consequences of using disposable resources versus reusable resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§9783. Earth's Systems**

A. Identify relationships, using a model, of how the Earth's surface is a complex and dynamic set of interconnected systems (i.e., geosphere, hydrosphere, atmosphere, and biosphere).

B. Identify different causes of climate change and results of those changes with respect to the Earth's surface temperatures, precipitation patterns or sea levels over a wide range of temporal and spatial scales using a model.

C. Identify a connection between the properties of water and its effects on Earth materials.

D. Investigate the effects of water on Earth materials and/or surface processes.

E. Use a model of photosynthesis to identify that carbon is exchanged between living and nonliving systems.

F. Use a model of cellular respiration to identify that carbon is exchanged between living and nonliving systems.

G. Develop and/or use a quantitative model to identify relative amount of and/or the rate at which carbon is transferred among hydrosphere, atmosphere, geosphere, and biosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§9784. Human Sustainability**

A. Explain the relationship between human activity (e.g., population size, where humans live, types of crops grown) and changes in the amounts of natural resources using evidence.

B. Explain the relationship between human activity (e.g., population size, where humans live, types of crops grown) and changes in the occurrence of natural hazards using evidence.

C. Identify a solution that demonstrates the most preferred cost-benefit ratios for developing, managing, and utilizing energy and mineral resources (i.e., conservation, recycling, and reuse of resources).

D. Compare design solutions for developing, managing, and/or utilizing energy or mineral resources.

E. Use numerical data to determine the effects of a conservation strategy to manage natural resources and to sustain human society and plant and animal life.

F. Connect a technological solution (e.g., wet scrubber; baghouse) to its outcome (e.g., clean air) and its outcome to the human activity impact that it is reducing (e.g., air pollution).

G. Use representations to describe the relationships among Earth systems and how those relationships are being modified due to human activity (e.g., increase in atmospheric carbon dioxide, increase in ocean acidification, effects on organisms in the ocean (coral reef), carbon cycle of the ocean, possible effects on marine populations).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§9785. Ecosystems: Interactions, Energy and Dynamics**

A. Recognize that the carrying capacities of ecosystems are related to the availability of living and nonliving resources and challenges (e.g., predation, competition, disease).

B. Use a graphical representation to identify carrying capacities in ecosystems as limits to the numbers of organisms or populations they can support.

C. Use a graphical or mathematical representation to identify the changes in the amount of matter as it travels through a food web.

D. Use a graphical or mathematical representation to identify the changes in the amount of energy as it travels through a food web.

E. Use evidence to identify how modest biological or physical changes versus extreme changes affect stability and change (e.g., number and types of organisms) in ecosystems.

F. Evaluate explanations of how living things in an ecosystem are affected by changes in the environment (e.g., changes to the food supply, climate change, or the introduction of predators).

G. Evaluate explanations of how interactions in ecosystems maintain relatively stable conditions, but changing conditions may result in a new ecosystem.

H. Describe how people can help protect the Earth's environment and biodiversity (e.g., preserving ecosystems) and how a human activity would threaten Earth's environment and biodiversity (e.g., pollution, damaging habitats, over hunting).

I. Evaluate or refine a solution to changes in an ecosystem (biodiversity) resulting from a human activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be

kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, June 9, 2018, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be increased costs and workload adjustments to local school districts (LEA) associated with the implementation of the revised science content standards for students with significant cognitive disabilities. While some resources may be made available by the LDE and from some publishers at no or very low cost, not all local school systems use those vendors. Each LEA is required to provide instruction aligned to BESE approved standards and has the autonomy and flexibility to develop, adopt, and utilize instructional materials that best support their students' achievement of standards. Most districts utilize multiple vendors to develop instructional materials, supplements, and curricula guides, as well as benchmark assessment, including those tied to student learning targets for the school and teacher accountability programs, all of which vary across systems. Some districts develop their own materials and/or assessments. Furthermore, districts may incur costs for teachers attending training provided by the LDE and for providing additional training for all other teachers in order to implement the standards successfully.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy change will have no anticipated effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1805#056

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Ancillary Areas of Instruction (LAC 28: CXV.2305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 741—Louisiana Handbook for School Administrators*: §2305, Ancillary Areas of Instruction. The proposed revisions are related to substance abuse prevention programs.

#### Title 28 EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 23. Curriculum and Instruction

#### Subchapter A. Standards and Curricula

#### §2305. Ancillary Areas of Instruction

A. - E. ...

F. Each LEA shall include in the curriculum a program of substance abuse prevention, to include informational, effective, and counseling strategies, and information designed to reduce the likelihood that students shall injure themselves or others through the misuse and abuse of chemical substances.

1. The substance abuse prevention education programs and curricula shall also include procedures for identifying students who exhibit signs of misuse or abuse of such substances and procedures for referral for counseling or treatment.

2. - 3. ...

4. Such programs shall integrate an evidence-based, age-appropriate instructional component on opioid substance abuse prevention.

G. - K.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154, R.S. 17:261 et seq., R.S. 17:280, R.S. 17:281 et seq., R.S. 17:404, R.S. 17:405 et seq., 36 USCS §106, R.S. 17:263, and R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:2214 (August 2013), LR 39:3259 (December 2013), LR 40:2531 (December 2014), LR 44:

#### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, June 9, 2018, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201

North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Bulletin 741—Louisiana Handbook for  
School Administrators—Ancillary Areas of Instruction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There may be costs to local school districts associated with the proposed revisions which include an opioid-specific component in substance abuse prevention programs. However, the Department of Education will provide additional supports, resources, and training during the summer of 2018 and integrated into professional development and communication structures beginning with the 2018-2019 school year which will serve to mitigate potential costs increases for the districts.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy change will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There is no estimated effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1805#054

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 140—Louisiana Early Childhood Care and  
Education Network (LAC 28:XCI.103, 307, 313,  
503, 507, 509, 511, 512, 515, 517, 523, 703, and 705)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 140—Louisiana Early Childhood Care and Education Network*: §103, Definitions; §307, Publicly-Funded Early Childhood Care and Education Programs and Community Networks; §313, Academic Approval for Type III Early Learning Centers; §503, Coordinated Observation Plan and Observation Requirements; §507, Performance Profile Implementation Timeline; §509, Performance Rating Calculations for Publicly-Funded Sites; §511, Performance Rating Calculations for Community Networks; §512, Performance Ratings for Publicly-Funded Sites; §515, Reporting for the Accountability System; §517, Data Verification; §523, Disaster Consideration for Programs and Community

Networks; §703, Coordinated Enrollment Process; and §705, Implementation Timeline.

The proposed revisions ensure one organization within each local community network coordinates across programs (childcare, Head Start, school-based pre-K), and define organization responsibilities; set clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session, and establish processes to ensure fairness and equity for providers and families; and establish a unified quality rating and improvement system that specifies how programs and community networks are evaluated, and establishes processes for fairness and equity for programs.

**Title 28**

**EDUCATION**

**Part CLXVII. Bulletin 140—Louisiana Early Childhood  
Care and Education Network**

**Chapter 1. General Provisions**

**§103. Definitions**

\* \* \*

*At-Risk*—children are considered at-risk if they have any of the characteristics listed in the definition of “economically disadvantaged” found in Title 28, Part I of the *Louisiana Administrative Code*), or they meet the definition of an “infant or toddler with a disability” found in 34 CFR §303.21 for children ages birth to three years or a “child with a disability” found in 34 CFR §300.8 for children ages 3 and older.

\* \* \*

*EarlySteps Program*—program administered by the Louisiana Department of Health that provides early intervention services for infants and toddlers with disabilities ages birth to three years and their families according to the requirements of the Individuals with Disabilities Education Act (IDEA), part C.

\* \* \*

*Individuals with Disabilities Education Act (IDEA), Part C*—federal program administered by the Louisiana Department of Health that provides early intervention services for infants and toddlers with disabilities ages birth to three years and their families to meet the developmental needs as identified by the individualized family services plan. See *EarlySteps Program*.

\* \* \*

*NSECD*—Nonpublic Early Childhood Development Program.

\* \* \*

*Publicly-Funded Children*—children ages birth to five years who have not yet entered kindergarten that are being served full-day with funds from either CCAP, Early Head Start, Head Start, LA 4 Program, NSECD, 8(g) block grant, title 1 of ESSA, other local, state, or federal funds, or IDEA part B in a full-day setting.

\* \* \*

*Publicly-Funded Early Childhood Care and Education Program*—an early learning center-based or school-based organization that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) block grant, title 1 of ESSA or IDEA part B, other local, state, or

federal funds, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

*Publicly-Funded Early Childhood Care and Education Site*—a distinct early learning center-based or school-based location that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten in a full-day setting with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) block grant, title 1 of ESSA or IDEA part B, other local, state, or federal funds, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:1871 (November 2016), LR 44:

### **Chapter 3. Early Childhood Care and Education Network**

#### **§307. Publicly-Funded Early Childhood Care and Education Programs and Community Networks**

A. - A.1.c. ...

2. Any publicly-funded program that does not comply with Paragraph A.1 of this Section may be subject to the loss of its public funding.

B. - B.1.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2582 (December 2015), amended LR 44:

#### **§313. Academic Approval for Type III Early Learning Centers**

A. - D.2. ...

3. Renewal of Academic Approval. Academic approval shall be renewed annually for any non-full-day type III early learning center if the center:

- a. has current academic approval;
- b. is in compliance with any corrective action plans required by the department in accordance with this Section; and
- c. has submitted a signed copy of the current annual program partner assurances for non-full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

E. - F.1.a.i.(c). ...

ii. all lead teachers at the center:

(a) have an early childhood ancillary certificate or other traditional teaching certification issued by the BESE; or

(b) are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate by BESE within 24 months of the state date as a lead teacher.

iii. a minimum of 20 hours a week of care for every classroom providing full day care in a publicly-funded site will be provided by a lead teacher or lead teachers that:

(a) have an early childhood ancillary certificate or other traditional teaching certification issued by BESE; or

(b) are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of start date as a lead teacher.

2. ...

G. Renewal of Academic Approval for Full-Day Type III Early Learning Centers for Fiscal Year 2018-2019

1. Academic approval shall be renewed annually for fiscal years 2018-2019 and beyond for any full-day type III early learning center that:

- a. has current academic approval;
- b. is in compliance with the provisions of this bulletin;
- c. has not had two unsatisfactory performance ratings within any consecutive three school years; and
- d. has submitted a signed copy of the current annual program partner assurances for full-day type III early learning centers to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:
  - i. membership in the corresponding community network, as provided in Chapter 3;
  - ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and
  - iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Full-day type III early learning centers shall annually submit a signed copy of annual program partner assurances for full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever is earlier.

H. Renewal of Academic Approval for Full-Day Type III Early Learning Centers for Fiscal Years 2019-2020 and Beyond

1. Academic approval shall be renewed annually for fiscal years 2019-2020 and beyond for any full-day type III early learning center that:

- a. has current academic approval;
- b. is in compliance with the provisions of this bulletin;
- c. has not had two unsatisfactory performance ratings within any consecutive three school years; and
- d. has submitted a signed copy of the current annual program partner assurances for full-day early learning centers to the department, thereby certifying that:
  - i. the center will comply with the provisions of this bulletin, which include:
    - (a) membership in the corresponding community network, as provided in Chapter 3;
    - (b) participation in the early childhood care and education accountability system, as provided in Chapter 5; and
    - (c) participation in the coordinated enrollment process, as provided in Chapter 7; and
  - ii. all lead teachers at the center:

(a) have an early childhood ancillary certificate or other traditional teaching certification issued by BESE; or

(b) are in the process of completing training that will lead to the early childhood ancillary certificate and will



have obtained an early childhood ancillary certificate issued by BESE within 24 months of start date as a lead teacher;

iii. a minimum of 20 hours a week of care for every classroom providing full day care in a publicly-funded site will be provided by a lead teacher or lead teachers that:

(a). have an early childhood ancillary certificate or other traditional teaching certificate issued by BESE; or

(b). are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of start date as a lead teacher.

2. Full-day type III early learning centers shall annually submit a signed copy of annual program partner assurances for full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

I. A center that has its academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or the following fiscal year.

J. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

K. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

L. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

#### M. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

a. renewal of academic approval for the center;

b. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

c. if an early learning center has received the notice outlined in Subparagraph N.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph N.2.c of this Section and send notice of termination of the center's academic approval.

N. Denial, Termination or Refusal to Renew Academic Approval

1. The department may deny, terminate, or refuse to renew academic approval for:

a. violations of any provisions of this bulletin;

b. failure to timely comply with a corrective action plan provided by the department;

c. any act of fraud, such as the submission of false or altered documents or information;

d. failure to timely submit a signed copy of the annual program partner assurances;

e. two unsatisfactory performance ratings within any consecutive three school years; or

f. failure to participate in the early childhood school or center improvement planning process, as required by §512 of this bulletin.

#### 2. Notice

a. If a type III early learning center is in violation of any provision of this bulletin, the department shall notify the center in writing and may specify any corrective actions in a corrective action plan that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions specified in the corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan and certification that the center will remain in compliance with the corrective action plan and all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective action plan, the department may terminate or refuse to renew the center's academic approval.

d. The department shall provide written notice of denial, termination or refusal to renew academic approval to the center.

e. The denial, termination or refusal to renew a center's academic approval shall be effective when notice of the denial, termination, or refusal to renew is given.

#### O. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the denial, termination or refusal to renew academic approval for a type III early learning center.

2. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the denial, termination, or refusal to renew its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of the denial, termination, or refusal to renew its academic approval.

4. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

5. The department shall review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within 10 working days of the next regularly scheduled BESE meeting. Within this interval, the department shall notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response shall be submitted to BESE for final disposition.

6. An early learning center that appeals the termination or refusal to renew its academic approval shall retain its academic approval during the appeal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:1871 (November 2016), LR 43:2129 (November 2017), LR 44:

## **Chapter 5. Early Childhood Care and Education Accountability System**

### **§503. Coordinated Observation Plan and Observation Requirements**

A. ...

B. *CLASS*<sup>®</sup> Observation Requirements

1. A *CLASS*<sup>®</sup> observation is an observation of the typical experiences of children in a classroom using the appropriate toddler or pre-K *CLASS*<sup>®</sup> using all domains, typically occurring during the morning, in which a reliable observer conducts four 20-minute cycles of observation and note-taking followed by at least 10 minutes of scoring after each observation cycle.

2. - 3.c....

d. Infant Classrooms

i. For the 2018-2019 school year, all infant classrooms in a publicly-funded site shall be reported to the department as part of the community network's count of classrooms, and may conduct or allow local or third-party observations as practice.

ii. For the 2019-2020 school year, all infant classrooms in a publicly-funded site shall receive two *CLASS*<sup>®</sup> observations during the school year conducted by the community network, but the observations shall not be included in the performance ratings for the 2019-2020 school year.

(a). One observation shall occur during the fall observation period, if the classroom is in existence on October 1, and the other shall occur during the spring observation period, if the classroom is in existence on February 1.

(b). *CLASS*<sup>®</sup> observations conducted by third-party contractors hired by the department shall not count towards this requirement.

iii. For the 2020-2021 school year and beyond, all infant classrooms in a publicly-funded site shall receive two *CLASS*<sup>®</sup> observations during the school year conducted by the community network.

(a). One observation shall occur during the fall observation period, if the classroom is in existence on October 1, and the other shall occur during the spring observation period, if the classroom is in existence on February 1.

(b). *CLASS*<sup>®</sup> observations conducted by third-party contractors hired by the department shall not count towards this requirement.

4. Use of Infant, Toddler, or Pre-K *CLASS*<sup>®</sup>. Classrooms shall be observed with the same *CLASS*<sup>®</sup> throughout the school year based on the composition of the classroom when the observation plan required in §503.C is submitted according to the following:

a. a classroom that only has infant children or a classroom that has a mix of infant and toddler children in

which a majority are infant children shall be observed with the infant *CLASS*<sup>®</sup>;

b. a classroom that has all toddler children or a classroom that has a mix of infant and toddler children in which the majority or at least half are toddler children shall be observed with the toddler *CLASS*<sup>®</sup>;

c. a classroom that has all pre-K children or a classroom that has a mix of toddler and Pre-K children in which the majority or at least half are pre-K children shall be observed with the pre-K *CLASS*<sup>®</sup>;

d. a classroom that has a mix of pre-K and kindergarten age children shall be observed using the pre-K *CLASS*<sup>®</sup> when either the majority of the class is pre-K or if the classroom receives early childhood funding;

e. a classroom that is a mix of infant, toddler, and pre-K children shall be observed using the tool appropriate for the majority of the class. If there is a no clear majority among the three age groups, the toddler tool shall be used.

5. - 5.b....

c. At the end of the school year, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors within the same community network, if 50 percent or more of the domain-level results are different by more than one point for the community network observer over the course of the school year, the department may determine that the community network observer shall not be able to conduct observations for that community network for the next observation period.

c.i. - d. ...

C. Coordinated Observation Plan

1. Local Protocol. Each community network shall develop and maintain, no later than September 30 of each year, a written local protocol for coordinated observation using *CLASS*<sup>®</sup> that at a minimum includes:

a. ...

b. a plan to ensure reliable data that includes the following requirements:

i. all observers are reliable, which is defined as all observers having a certification achieved by completing and passing all trainings and assessments required by Teachstone to conduct a *CLASS*<sup>®</sup> observation with validity and fidelity;

ii. all observers maintain inter-rater reliability and fidelity. Inter-rater reliability occurs when two or more observers produce consistent observation results for the same classroom at the same time;

iii. the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed during the fall observation period and for 10 percent of all classrooms observed during the spring observation period, and that these reliability observation checks include every observer for the community network at least once annually; and

iv. no observer shall conduct an observation in which the observer is an immediate family member, as defined in R.S. 42:1101, of a teacher in the classroom being observed or an immediate family member of an individual who supervises or provides training or technical assistance to a teacher in the classroom being observed or has a direct financial interest in the site where the classroom is being observed.

2. Observation Schedule

a. In 2018-2019, each community network shall submit an observation schedule that includes two observations for each toddler and pre-K classroom identified in Paragraph B.3 of this Section.

b. In 2019-2020 and beyond, each community network shall submit an observation schedule that includes two observations for each infant, toddler, and pre-K classroom identified in Paragraph B.3.b, with one observation scheduled during the fall observation period and one during the spring observation period.

3. Submission of Observation Schedules

a. For the fall observation period, the observation schedule must be submitted to the department by October 1 unless otherwise specified by the department.

b. For the spring observation period, the observation schedule must be submitted to the department by February 1 unless otherwise specified by the department.

c. Lead agencies may alter these schedules after submission as required by local circumstances, or in order to complete local observations around the same time as third-party observations.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:1872 (November 2016), LR 43:2131 (November 2017), LR 44:

§507. Performance Profile Implementation Timeline

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), repealed LR 44:

§509. Performance Rating Calculations for Publicly-Funded Sites

A. Performance Rating

1. For the 2018-2019 and 2019-2020 school years, the performance rating for each publicly-funded site shall be based on the average of the dimension-level toddler and pre-K observation results from the fall and spring observation periods for all toddler and pre-K classrooms within the site, excluding the negative climate dimension.

2. For 2020-2021 school year and beyond, the performance rating for each publicly-funded site shall be based on the average of the dimension-level infant, toddler, and pre-K observation results from the fall and spring observation periods for all infant, toddler, and pre-K classrooms within the site, excluding the negative climate dimensions.

3. BESE may include a weight for improvement beginning with the 2016-2017 school year.

4. Sites that have classrooms that receive a score of 3.5 or above for the negative climate dimension shall receive a notice in writing at the end of the observation period in which they received that score. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate may be reported on the performance profile.

B. - C.2. ...

a. Beginning with the 2016-2017 school year, if observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

D. The performance rating for each site shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 5.25-5.99—high proficient;
3. 4.50-5.24—proficient;
4. 3.0-4.49—approaching proficient;
5. 1.0-2.99—unsatisfactory.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:1873 (November 2016), LR 44:

§511. Performance Rating Calculations for Community Networks

A. - B.2.b. ...

i. For every year after the 2015-2016 school year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

C. The equitable access score performance rating shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a four-level rating scale according to:

Percentage of At-Risk Four-Year-Olds Served	Rating
95-100 percent	Excellent
85 - 94.99 percent	High Proficient
75-84.99 percent	Proficient
65-79.4.99 percent	Approaching Proficient
0-64.99 percent	Unsatisfactory

D. The CLASS® observation results performance rating for each community network shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 5.25-5.99—high proficient;
3. 4.50-5.24—proficient;
4. 3.0-4.49—approaching proficient;
5. 1.0-2.99—unsatisfactory.

E. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016), LR 44:

**§512. Performance Ratings for Publicly-Funded Sites**

A. - A.3. ...

B. Early Childhood School or Center Improvement Planning Process

1. Beginning with the 2018-2019 school year, publicly-funded sites rated below 3.75 for the previous year shall participate in an early childhood school or center improvement planning process. At a minimum, sites must:

- a. develop and submit a plan for school or center improvement in consultation with the department;
- b. implement the plan for school or center improvement and allow for regular monitoring of implementation by the department; and
- c. provide any reports or information related to the plan for school or center improvement as requested by the department.

C. Rewards and Recognition

1. Beginning in the 2016-2017 school year, sites and community networks that are rated “excellent” shall be included in an annual honor roll published by the department and be eligible for financial rewards, as funds are available and as determined by the department.

2. No later than the 2017-2018 school year, sites and community networks that demonstrate significant improvement in their overall score or rating shall be labeled “top gains” on their performance profile and be eligible for financial rewards, as funds are available and as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1874 (November 2016), amended LR 44:

**§515. Reporting for the Accountability System**

A. - A.4. ...

B. Publicly-funded sites shall report to the department by October 31 for all classrooms in existence on October 1 and by February 28 for classrooms opened between October 1 and February 1, in the manner specified by the department, the following:

- 1. - 2. ...
- 3. credential and certification status of one lead teacher per classroom; and
- 4. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2589 (December 2015), amended LR 42:1875 (November 2016), LR 44:

**§517. Data Verification**

A. - B.3. ...

4. Data corrections for CLASS® scores may only be submitted for the following reasons:

A.4. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:1876 (November 2016), LR 44:

**§523. Disaster Consideration for Programs and Community Networks**

A. - B. ...

C. Severe impact sites and severe impact community networks may qualify for a waiver for up to one school year from participation in the accountability system.

1. A severe impact site or severe impact community network that is not open or operational for at least one of the observation periods during the school year may qualify for a waiver from participation in the accountability system for up to that one observation period.

2. A severe impact site or severe impact community network that is not open or operational during both observation periods during the school year in which the disaster occurred may qualify for a waiver for the school year.

3. BESE shall not issue a performance profile for any severe impact site or severe impact community network that is not open or operational during both observation periods of the school year in which the disaster occurred unless the site or community network requests that the performance profile be issued. BESE may extend such site or community network’ performance rating and score from the previous year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2591 (December 2015), amended LR 44:

**Chapter 7. Coordinated Enrollment**  
**§703. Coordinated Enrollment Process**

A. - G.4. ...

5. Written notice of the process outlined in Paragraph 2 of this Subsection, as well as of the complaint process described in LAC 28:CLXVII.311.A-F, and the appropriate contact information for the department, shall be made available to any parent or caregiver.

H. Community networks shall determine preliminary eligibility for families interested in CCAP during the coordinated eligibility determination as provided in §703.B.2, and the department shall determine final eligibility for CCAP.

I. Prior to the start of the school year, BESE shall review this Chapter and revise as necessary based on learnings from the previous year. A work group of the Early Childhood Care and Education Advisory Council shall be formed to study the effectiveness of the coordinated enrollment process and make recommendations to the council and BESE for changes for implementation in the following school year. This research may include, but not be limited to, defining key indicators of effectiveness, conducting focus groups of all provider types, reviewing data on the placement of new early childhood seats opened statewide, and reviewing other available information. The department, with assent shown by vote of the advisory council, may decide in a given year that no review is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2591 (December 2015), amended LR 42:1876 (November 2016), LR 44:

#### §705. Implementation Timeline

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:1876 (November 2016), repealed LR 44:

#### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the

objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, June 9, 2018, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 140—Louisiana Early Childhood Care and Education Network**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions may result in an increase in expenditures by the Louisiana Department of Education (LDE), as well as for local school districts acting as the Community Network lead agency and individual early childhood schools or centers. Early childhood program activities are funded from multiple sources including federal Child Care and Development Funds (CCDF), federal IDEA funds, federal grant funds, and state general funds, as well as local funding and other available resources. While these funds may be used for expenses associated with the implementation of the new requirements defined in the proposed rule, existing funding levels may be insufficient to fully fund actual costs.

Significant revisions establish a minimum number of hours taught by lead teachers with certain credentials; require two CLASS observations for infant classrooms annually; and require the development and implementation of an improvement plan for sites with annual performance ratings below 3.75.

Early Learning Centers may be required to increase pay for existing teachers or hire additional personnel who have the necessary credentials to ensure the minimum of 20 hours per week of care be provided by lead teachers that meet the stated criteria. However, the LDE does provide resources to these centers and their staff to assist in obtaining the necessary credentials which could also be accessed to ensure existing staff have the required certifications and mitigate any potential costs increases.

Lead agencies will incur additional costs to meet the required CLASS observations for infant classrooms. The cost

per observation ranges from \$100 to \$300 depending upon who conducts the observation. The Networks receive funding from the LDE which is used to offset these costs, however, to the extent the funding is not increased commensurate with the increased number of required observations, lead agencies will be required to identify alternative funding sources, or reduce expenditures of other activities.

Finally, the proposed revisions require early childhood schools or centers to develop and submit improvement plans based on annual performance scores. Such plans may require additional resources including professional development and curriculum improvements. Affected entities may avail themselves of resources provided by the LDE, however not all costs will be covered by the LDE and entities will be required to utilize other available resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Lead agencies may receive increased grant funding from the LDE to address the increased costs of the Class observations.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A lead agency may also be a non-profit or for-profit corporation. As such the implementation costs and allocations for lead agencies described above will apply to these non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be increased demand for individuals and organizations which conduct CLASS observations. Furthermore, the demand for teachers who meet the necessary teaching credentials will likely increase which could result in increased employment opportunities and earning potential for those individuals.

Early learning centers which fail to achieve minimum performance scores and do not have the resources necessary to implement improvement plans could choose to close or discontinue participation as a publicly funded center. Any such impacts are indeterminable at this time.

Beth Scioneaux  
Deputy Superintendent  
1805#055

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Tuition Trust Authority  
Office of Student Financial Assistance**

**START Saving Program  
(LAC 28:VI.311, 315, 507, 509, and 517)**

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

This rulemaking adds the applicable interest rates for the START Saving Program for the 2017 calendar year. It adds provisions allowing the rollover of a START Saving Program account to a qualified ABLE program to bring the program in line with amendments to IRC section 529 as part of the Tax Cuts and Jobs Act of 2017. It also allows a juridical entity to open an LA ABLE account on behalf of a disabled individual under specified circumstances. (ST18181NI)

**Title 28**

**EDUCATION**

**Part VI. Student Financial Assistance—Higher  
Education Savings**

**Chapter 3. Education Savings Account**

**§311. Termination, Refund, and Rollovers of an  
Education Savings Account**

A. - G. ...

H. Rollovers

1. Rollovers among ESAs of the Same Account Owner

a. Beginning October 1, 2009, an account owner may rollover any part or all of the value of an ESA to another ESA if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

b. If the current value of an ESA is transferred, all EEs and earnings thereon shall be included in the transfer.

2. Rollover to another Qualified Tuition Program

a. An account owner may request a rollover of the current value of the account less EEs and earnings thereon to another qualified tuition program.

b. EEs and the earnings thereon allocated to an ESA that is rolled over to another qualified tuition program are forfeited.

3. Rollover to a Qualified ABLE Program Account

a. Beginning May 1, 2018, an account owner may rollover any part or all of the value of an ESA to a qualified ABLE program account if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the ESA.

b. EEs and the earnings thereon allocated to an ESA that is transferred to a qualified ABLE program are forfeited.

c. A rollover by a Louisiana resident to any qualified ABLE program account will be subject to Louisiana tax table income in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 36:492 (March 2010), LR 36:2551 (November 2010), LR 39:2238 (August 2013), LR 42:1080 (July 2016), LR 44:

**§315. Miscellaneous Provisions**

A. - B.36. ...

37. For the year ending December 31, 2017, the Louisiana education tuition and savings fund earned an interest rate of 1.68 percent.

38. For the year ending December 31, 2017, the savings enhancement fund earned an interest rate of 1.52 percent.

C. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June

1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 44:

## **Chapter 5. Achieving a Better Life Experience (ABLE)**

### **§507. Applicable Definitions**

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

*Account Owner*—the eligible individual who opened the account, or the eligible individual on whose behalf the account was opened, and who is also the beneficiary.

*Administrator*—the person who has the authority to direct the activities of the account. The administrator of the account may be the account owner or a person authorized by law or by authentic act to administer the account on behalf of the beneficiary. For purposes of these rules, the term administrator shall mean the account owner or a person who is legally authorized to act on his behalf.

*Beneficiary*—the eligible individual who established the ABLE account, or for whom an ABLE account was established, and who is the owner of such account.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:639 (April 2017), amended LR 44:

### **§509. Establishment of an ABLE Account**

A. - D.1. ...

2. Documentation required to establish an account on behalf of an eligible individual includes:

a. if a parent, a copy of the eligible individual's birth certificate;

b. if an adoptive parent, documentation evidencing the adoption of the eligible individual;

c. if a custodian, court documents evidencing the appointment of the custodian by a court of law;

d. if designated by the eligible individual to administer his affairs, documentation evidencing such designation;

e. if a juridical entity, documentation evidencing that the eligible individual, or a person authorized to act on his behalf, as indicated in §509.D.2.a-d above, has designated the juridical entity to act on his behalf for purposes of an LA ABLE account program account.

E. - H.4.b.vii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:640 (April 2017), amended LR 44:

### **§517. Termination, Refund, and Rollovers of an Education Savings Account**

A. - G.1.b. ...

2. Rollover to another ABLE Program

a. An administrator may request a rollover of the current value of the account to another qualified ABLE program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:642 (April 2017), amended LR 44:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

#### **Public Comments**

Interested persons may submit written comments on the proposed changes (ST18181NI) until 4:30 p.m., June 11, 2018, to Sujuan Williams Boutté, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively  
Senior Attorney

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: START Saving Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in additional costs to the Office of Student Financial Assistance (OSFA) or any other state or local government units. The proposed rule change codifies the actual earnings realized on Student Tuition Assistance and Revenue Trust (START) Saving Program accounts that are invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements for the 2017 calendar year.

The proposed rule changes permit the transfer of funding from a START Account to an ABLE Account to bring the program in line with amendments to IRC Section 529 as part of the Tax Cuts and Jobs Act of 2017. Any Earnings Enhancements with associated earnings assigned to a START Education Savings Account (ESA) would be forfeited upon transfer of the private portion of funding from a START Account to an ABLE Account. The forfeited earning enhancements funding would be available for allocation to other START Accounts, resulting in a potential minor cost saving for the state.

In addition, the proposed rule changes will allow a juridical entity to open an ABLE Account on behalf of a disabled individual under specified circumstances.

None of these proposed rule changes are anticipated to increase OSFA's workload or costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units from the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will directly affect START account holders by providing additional flexibility and additional interest earnings. The proposed rule changes adopt interest rates for deposits and earnings enhancements for the year ending December 31, 2017 as a result of START account holders earning a higher interest rate than in the previous year. As determined by the State Treasurer, the interest rate earned for the 2017 calendar year by the Louisiana Education Tuition and Savings Fund was 1.68%, and by the Savings Enhancements Fund was 1.52%. These additional investment earnings are the property of the account owners.

Proposed rule changes also will provide account owners with additional flexibility by allowing them to move funding between different types of accounts. However, any Earning Enhancements with associated earnings assigned to a START Education Savings Account (ESA) would be forfeited upon transfer of the private portion of funding from a START Account to an ABLE Account.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively  
Senior Attorney  
1805#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Pharmacy**

Pharmacy Benefit Managers (LAC 46:LIII.Chapter 24)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to promulgate new rules for the licensing and regulation of pharmacy benefit managers, more specifically Subchapter F, Pharmacy Benefit Managers of Chapter 24, Limited Service Providers.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 24. Limited Service Providers  
Subchapter F. Pharmacy Benefit Managers  
§2471. Definitions**

A. The following terms shall have the meaning ascribed to them in this Section.

*Health Insurance Plan*—an individual or group plan or program, whether commercial, self-insured, or mandated or sponsored by any federal, state, or local government, which is established by contract, certificate, law, plan, policy,

subscriber agreement, or by any other method and which is entered into, issued, or offered for the purpose of arranging for, delivering, paying for, providing, or reimbursing any of the costs of health or medical care, including pharmacy services, drugs, or devices.

*Pharmacy Benefit Management Plan* or *Pharmacy Benefits Program*—a plan or program that pays for, reimburses, covers the cost of, or otherwise provides for pharmacist services or drugs or devices to individuals who reside in or are employed in Louisiana.

*Pharmacy Benefit Manager* or *PBM*—any person or other entity who administers the prescription drug or device program of one or more health insurance plans on behalf of a third party in accordance with a pharmacy benefit program. This term includes any agent or representative of a pharmacy benefit manager, hired or contracted by the pharmacy benefit manager to assist in the administering of the drug program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 44:

**§2473. Pharmacy Benefit Manager Permit; Activities; Prohibitions**

A. Any pharmacy benefit manager who, pursuant to a contract or under an employment relationship with a carrier, health benefit plan sponsor, or other third-party payer, either directly or through an intermediary, manages the drug or device coverage or other pharmacy benefits provided by the carrier, plan sponsor, or other third-party payer, shall be permitted by the board.

B. A pharmacy benefit manager permit shall authorize the permit holder to administer pharmacy benefit management services.

C. Pharmacy benefit management services include, but are not limited to:

1. development, maintenance, and/or administration of drug formularies;
2. development, maintenance, and/or administration of step therapy procedures;
3. development, maintenance, and/or administration of utilization management and utilization reviews;
4. development, maintenance, and/or administration of drug regimen reviews;
5. development, maintenance, and/or administration of quality care dosing services;
6. development, maintenance, and/or administration of prescription drug management programs and the contracting with pharmacies for same;
7. development, maintenance, and/or administration of disease management programs;
8. administration, processing, and/or payment of claims for prescription drugs;
9. processing of prior authorization requests;
10. adjudication of appeals and/or grievances related to prescription drug coverage; and
11. any other act, service, operation, or transaction incidental to or forming a part of the compounding, filling, dispensing, exchanging, giving, offering for sale, or selling drugs, medicines, poisons or devices in this state by pharmacists or pharmacies, pursuant to a prescription or an order of physicians, dentists, veterinarians, or other licensed practitioners, requiring, involving, or employing the science



or art of any branch of the pharmacy profession, study, or training.

D. The provisions of R.S. 37:1232(A) and Section 2303 of this Part notwithstanding, the pharmacy benefit manager need not hold a resident pharmacy permit in the state in which it is located prior to applying for a pharmacy benefit manager permit. However, should the pharmacy benefit manager not hold a resident pharmacy permit in the state in which it is located, the pharmacy benefit manager shall be subject to an inspection by the board or its designated agent, in compliance with the provisions of R.S. 37:1232(C).

E. The board shall not issue a pharmacy benefit manager permit to any person or other entity which has not yet registered with the Louisiana Secretary of State to conduct business within the state.

F. When the pharmacy benefit manager permit is issued, it shall be valid only for the owner and specific location noted on the application and recorded on the permit, and the permit shall not be valid for any premises other than the physical location to which it was issued.

G. A pharmacy benefit manager permit is not transferable from the original owner. The permit shall not be subject to sale, assignment or other transfer, voluntary or involuntary. Moreover, in the event the ownership of the pharmacy benefit manager changes by 50 percent or more after the initial issuance of the permit, the ownership will be deemed sufficiently different as to require a new pharmacy benefit manager permit. The continued operation of a pharmacy benefit manager permit after its ownership has changed by more than 50 percent shall constitute sufficient basis for the board to issue a finding for the operation of a pharmacy benefit manager without a valid permit, in violation of R.S. 37:1241(A)(12).

H. Any pharmacy benefit manager may request an exemption from the requirement of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 44:

#### **§2475. Licensing Procedures**

##### **A. Application for Initial Issuance of Permit**

1. The board shall develop an application form suitable for the pharmacy benefit manager permit. The board may revise that application form on its own initiative in order to collect the information it deems necessary to properly evaluate an applicant.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. Once received by the board, an application for the permit shall expire one year thereafter. Fees attached to an expired application shall be forfeited by the applicant and deposited by the board.

4. In the event any information contained in the application or accompanying documents changes after being submitted to the board and before the issuance of the permit, the applicant shall immediately notify the board in writing and provide corrected information.

5. The applicant may be required to personally appear before the board or one of its committees prior to any decision on the permit application.

6. Upon approval of the application, the board shall issue the pharmacy benefit manager permit to the applicant.

##### **B. Application for Renewal of Permit**

1. All pharmacy benefit manager permits shall expire at midnight on August 31 of every year, regardless of the date of its initial issuance.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. In the event the pharmacy benefit manager does not submit a properly completed renewal application and fee to the board prior to the expiration of the permit, the permit shall be rendered null and void. A pharmacy benefit manager shall not operate with an expired permit. The continued operation of a pharmacy benefit manager with an expired permit shall constitute sufficient basis for the board to issue a finding for the operation of a pharmacy benefit manager without a valid permit, in violation of R.S. 37:1241(A)(12).

4. An application for the late renewal of an expired pharmacy benefit manager permit that is received in the board office no later than 30 days after the expiration date of the permit may be processed by the board office provided the appropriate delinquent fee authorized in R.S. 37:1184 is included with the application.

5. A pharmacy benefit manager permit not renewed by 30 days after the expiration date shall be automatically terminated by the board.

6. An application for the reinstatement of a terminated pharmacy benefit manager permit shall be referred to the board's reinstatement committee for its consideration.

##### **C. Application for Reinstatement of Lapsed, Suspended, or Revoked Permit**

1. The applicant shall complete the application form for this specific purpose supplied by the board.

2. The application shall be accompanied by the payment of the permit fee, delinquent renewal fee, and reinstatement fees authorized in R.S. 37:1184.

3. Upon the receipt of a properly completed application form and fee, the board staff shall refer the application to the board's reinstatement committee for its consideration and shall notify the applicant of the time and place for the committee meeting.

##### **D. Maintenance of Permit**

1. A pharmacy benefit manager permit shall be valid for the entity to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall the permit be valid for any premises other than the business location recorded on the permit.

2. Upon receipt of a written request and payment of the fee authorized in R.S. 37:1184, the board shall issue a duplicate or replacement permit to the applicant; however, such duplicate or replacement permit shall not serve or be used as an additional or second permit.

3. Prior to any change in the location of a pharmacy benefit manager, the owner of the permit shall submit an application form for that purpose supplied by the board and pay the appropriate fee authorized in R.S. 37:1184. The board may require an inspection of the new location prior to the issuance of the permit for the new location. The operation of a pharmacy benefit manager in a new location

not approved by the board shall constitute sufficient basis for the board to issue a finding for the operation of a pharmacy benefit manager without a valid permit, in violation of R.S. 37:1241(A)(12).

4. In the event the pharmacy benefit manager contemplates permanent closure of the pharmacy benefit manager business, the owner of the permit shall notify the board, in writing, 10 days prior to the anticipated date of closure and surrender its permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 44:

#### **§2477. Applicable Laws and Regulations; Sanctions**

A. Any pharmacy benefit management service of a pharmacy benefit manager that adversely affects or impairs the health, safety, and welfare of a person who is a beneficiary of the pharmacy benefit program administered by the pharmacy benefit manager and who resides or works in this state or directly impairs the ability of a pharmacist or pharmacy to compound, fill, dispense, exchange, give, offer for sale, or sell drugs, medicines, poisons or devices to any such person shall be deemed a violation of R.S. 37:1241(A)(1), as well as a violation of any other applicable provisions of R.S. 37:1241(A), providing cause for the board to take any of the actions permitted in R.S. 37:1241. Further, Louisiana pharmacy laws shall be applicable to regulation of the practice of pharmacy for that portion of the permitted pharmacy benefit manager's Louisiana pharmacy practice or operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 44:

#### **Family Impact Statement**

In accordance with section 953 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The effect on the stability of the family. The proposed Rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. The proposed Rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. The proposed Rule will have no effect on family earnings or family budget.

5. The effect on the behavior and personal responsibility of children. The proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. The proposed Rule will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. The proposed Rule will have no effect on household income, assets, or financial security.

2. The effect on early childhood development and preschool through postsecondary education development. The proposed Rule will have no effect on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. The proposed Rule will have no effect on employment or workforce development.

4. The effect on taxes and tax credits. The proposed Rule will have no effect on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. The proposed Rule will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

#### **Small Business Analysis**

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed Rule requires pharmacy benefit managers to obtain a pharmacy permit from the board. There are no specific reporting requirements. However, the proposed Rule does provide that any pharmacy benefit manager that adversely affects or impairs the health, safety, and welfare of a person who is a beneficiary of the pharmacy benefit program administered by the pharmacy benefit manager, or directly impairs the ability of a pharmacist or pharmacy to compound, fill, dispense, exchange, give, offer for sale, or sell drugs, medicines, poisons, or devices to any such person shall be deemed to have violated the Louisiana Pharmacy Practice Act and shall be subject to the disciplinary sanctions authorized by that same act.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no specific reporting requirements in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no specific reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design or operational standards required in the proposed Rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

### Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed Rule will have no effect on the total direct or indirect costs to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed Rule will have no effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative, by personal delivery, to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Monday, June 25, 2018 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. that same day.

Malcolm J. Broussard  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Pharmacy Benefit Managers

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase self-generated expenditures for the Louisiana Board of Pharmacy (LBP) by an estimated \$214,500 beginning in FY 19 and in subsequent fiscal years. The proposed rules establish a new type of pharmacy permit for pharmacy benefit managers (PBMs) in order to regulate the activities of PBMs that are construed as the practice of pharmacy.

The Board anticipates inspecting PBMs annually. To accomplish annual inspections of PBMs, LBP anticipates hiring one additional pharmacist compliance officer at a cost of \$166,500 annually (\$111,000 salary and \$55,500 related benefits) to supplement the six current compliance officers and carry out the annual inspections. LBP anticipates licensing and inspecting 40 PBMs annually, with inspection costs totaling an estimated \$48,000. Anticipated costs for an individual inspection total \$1,200 and include expenditures for travel (\$500), lodging (\$400), and meals and ground transportation for three days (\$300). LBP anticipates the aforementioned

inspection costs because all PBMs conducting business in Louisiana are located out-of-state. Furthermore, LBP may incur additional expenditures to conduct complaint-related investigations of PBMs. The expenditures associated with complaint-related investigations of PBMs is indeterminable and dependent upon the number of complaints received in a given year.

In addition, LBP has anticipated printing expenditures of \$1,000, including \$500 for the Notice of Intent in FY 18 and \$500 for the Final Rule in FY 19.

The proposed rules will not result in any additional expenditures or savings for local governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will result in an initial self-generated revenue increase of \$6,000 in FY 19 that will reduce to a \$5,000 self-generated revenue increase beginning in FY 20 and in subsequent years. The LBP anticipates licensing 40 PBMs beginning in FY 19. The existing fee for an initial pharmacy permit is \$150 and the annual renewals have an associated fee of \$125. With an assumption of 40 such entities seeking a permit, the Board anticipates up to \$6,000 in FY 19 (40 permits at \$150 initial permit fee) and \$5,000 per year thereafter (40 permits at \$125 permit renewal fee).

Furthermore, the LBP may realize additional self-generated revenue collections as a result of PBMs being subject to fines up to \$5,000 per offense to the extent they are found to be in violation of the Board's laws and regulations. Any revenue from this source is currently indeterminable and dependent upon PBMs committing violations and being fined as a result.

LBP does not anticipate any revenue collections for other state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will increase aggregate expenditures for PBMs conducting business in Louisiana by an estimated \$6,000 in FY 19 and by \$5,000 in subsequent fiscal years. PBMs operating in Louisiana will be subject to an initial \$150 permit fee in FY 19 and a \$125 permit renewal fee in subsequent fiscal years. With an assumption of 40 such entities seeking a credential, the Board anticipates PBMs' costs to be \$6,000 in FY 19 (40 permits at \$150 initial permit fee) and \$5,000 per year thereafter (40 permits at \$125 permit renewal fee).

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition or employment.

Malcolm J. Broussard  
Executive Director  
1805#053

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing

Home and Community-Based Services Providers  
Licensing Standards  
(LAC 48:I.5043)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.5043 as authorized by R.S. 36:254 and R.S. 40:2120.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to clarify the requirements for contract services to ensure that HCBS providers utilize contractors and/or subcontractors in compliance with all state and federal requirements.

**Title 48**  
**PUBLIC HEALTH—GENERAL**  
**Part I. General Administration**  
**Subpart 3. Licensing and Certification**  
**Chapter 50. Home and Community-Based Services**  
**Providers Licensing Standards**  
**Subchapter D. Service Delivery**  
**§5043. Contract Services**

A. - D. ...  
E. Any HCBS provider that employs contractors, including independent contractors, shall ensure that such utilization complies with all state and federal laws, rules and/or regulations, including those enforced by the United States Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2511 (December 2017), LR 44:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

**Public Comments**

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, June 28, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Home and Community-Based Services  
Providers—Licensing Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$324 (SGF) will be expended in FY 17-18 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule is being promulgated to amend the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to clarify the requirements for contract services to ensure that HCBS providers utilize contractors and/or subcontractors in compliance with all state and federal laws, rules, and/or regulations, including those enforced by the United States Department of Labor. It is anticipated that the implementation of this proposed rule will have no economic costs, but may be beneficial to HCBS providers in FY 17-18, FY 18-19 and FY 19-20 by providing clear and concise licensing standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello  
Health Standards Section Director  
1805#042

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

Intermediate Care Facilities for  
Persons with Intellectual Disabilities  
Cost Reports and Complex Care Reimbursement  
(LAC 50:VII.Chapter 329)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.Chapter 329 in the Medical Assistance Program as authorized by R.S.

36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the reimbursement methodology for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in order to: 1) clarify the provisions governing cost reports to align the direct care floor requirements for pervasive plus supplemental payments and complex care add-on payments with current practices; 2) require the annual renewal of the complex care add-on rate and submission of the associated documentation; and 3) eliminate the qualifying loss review requirement.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part VII. Long Term Care**

#### **Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**

##### **Chapter 329. Reimbursement Methodology**

##### **Subchapter A. Non-State Facilities**

##### **§32901. Cost Reports**

A. Intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) are required to file annual cost reports to the bureau in accordance with the following instructions.

1. Each ICF/IID is required to report all reasonable and allowable costs on a regular facility cost report, including any supplemental schedules designated by the bureau.

A.2. - B.2. ...

C. Direct Care Floor

1. ...

2. For providers receiving pervasive plus supplements in accordance with §32903.H or other client specific adjustments to the rate in accordance with §32903.I, the facility wide direct care floor is established at 94 percent of the per diem direct care payment and at 100 percent of any rate supplements or add-on payments received by the provider, including the pervasive plus supplement, the complex care add-on payment and other client specific adjustments to the rate. The direct care floor will be applied to the cost reporting year in which the facility receives a pervasive plus supplement and/or a client specific rate adjustment. In no case, however, shall a facility receiving a pervasive plus supplement and/or client specific rate adjustment have total facility payments reduced to less than 104 percent of the total facility cost as a result of imposition of the direct care floor.

3. For providers receiving complex care add-on payment in accordance with §32915, but not receiving pervasive plus supplements in accordance with §32903.H or other client specific adjustments to the rate in accordance with §32903.I, the facility wide direct care floor is established at 85 percent of the per diem direct care payment and at 100 percent of the complex care add-on payment. The direct care floor will be applied to the cost reporting year in which the facility receives a complex care add-on payment. In no case shall a facility receiving a complex care add-on

payment have total facility payments reduced to less than 104 percent of the total facility cost as a result of imposition of the direct care floor.

4. For facilities for which the direct care floor applies, if the direct care cost the facility incurred on a per diem basis is less than the appropriate facility direct care floor, the facility shall remit to the bureau the difference between these two amounts times the number of facility Medicaid days paid during the cost reporting period. This remittance shall be payable to the bureau upon submission of the cost report.

5. Upon completion of desk reviews or audits, facilities will be notified by the bureau of any changes in amounts due based on audit or desk review adjustments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2252 (September 2005), amended LR 33:461 (March 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

##### **§32915. Complex Care Reimbursements**

A. Effective for dates of service on or after October 1, 2014, non-state intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) may receive an add-on payment to the per diem rate for providing complex care to Medicaid recipients who require such services. The add-on rate adjustment shall be a flat fee amount and may consist of payment for any one of the following components:

1. - 7. ...

B. Non-state owned ICFs/IID may qualify for an add-on rate for recipients meeting documented major medical or behavioral complex care criteria. This must be documented on the complex support need screening tool provided by the department. All medical documentation indicated by the screening tool form and any additional documentation requested by the department must be provided to qualify for the add-on payment.

C. The complex support need screening tool shall be completed and submitted to the department annually from the date of initial approval of each add-on payment. This annual submittal shall be accompanied by all medical documentation indicated by the screening tool form and any additional documentation requested by the department.

1. - 2.a.iii. Repealed.

D. In order to meet the complex care criteria, the presence of a significant medical or behavioral health need must exist and be documented. This must include:

1. endorsement of at least one qualifying condition with supporting documentation; and

2. endorsement of symptom severity in the appropriate category based on qualifying condition(s) with supporting documentation.

a. Qualifying conditions for complex care must include at least one of the following as documented on the complex support need screening tool:

i. significant physical and nutritional needs requiring full assistance with nutrition, mobility, and activities of daily living;

ii. complex medical needs/medically fragile; or

iii. complex behavioral/mental health needs.

3. Repealed.

E. Enhanced Supports. Enhanced supports must be provided and verified with supporting documentation to qualify for the add-on payment. This includes:

1. endorsement and supporting documentation indicating the need for additional direct service worker resources;

2. endorsement and supporting documentation indicating the need for additional nursing resources; or

3. endorsement and supporting documentation indicating the need for enhanced equipment resources (beyond basic equipment such as wheelchairs and grab bars).

F. One of the following admission requirements must be met in order to qualify for the add-on payment:

1. the recipient has been admitted to the facility for more than 30 days with supporting documentation of necessity and provision of enhanced supports; or

2. the recipient is transitioning from another similar agency with supporting documentation of necessity and provision of enhanced supports.

3. - 3.e. Repealed.

G. Qualification for a complex care add-on payment may be reviewed and re-determined by the department annually from the date of initial approval of each add-on payment. This review shall be performed in the same manner and using the same standard as the initial qualifying review under this section.

H. The department may require compliance with all applicable laws, rules, and regulations as a condition of an ICF/IID's qualification for the complex care add-on rate and may evaluate such compliance in its initial and annual qualifying reviews.

I. All of the following criteria will apply for continued evaluation and payment for complex care.

1. Recipients receiving enhanced rates will be included in annual surveys to ensure continuation of supports and review of individual outcomes.

2. Fiscal analysis and reporting will be required annually.

3. The provider will be required to report on the following outcomes:

a. hospital admissions and diagnosis/reasons for admission;

b. emergency room visits and diagnosis/reasons for admission;

c. major injuries;

d. falls; and

e. behavioral incidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:276 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**Subchapter B. Qualifying Loss Review (Private Facilities)**

**§32949. Basis for Administrative Review**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:66 (January 1998), repromulgated LR

31:2255 (September 2005), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

**§32951. Request for Administrative Review**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:66 (January 1998), repromulgated LR 31:2255 (September 2005), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

**§32953. Basis for Rate Adjustment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:66 (January 1998), repromulgated LR 31:2256 (September 2005), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

**§32955. Awarding Relief**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:66 (January 1998), repromulgated LR 31:2256 (September 2005), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty as described in R.S. 49:973.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

**Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The

deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, June 28, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Intermediate Care Facilities for  
Persons with Intellectual Disabilities  
Cost Reports and Complex Care Reimbursement**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$594 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed Rule amends the provisions governing the reimbursement methodology for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in order to: 1) clarify the provisions governing ICF/IID cost reports to align the direct care floor requirements for pervasive plus supplemental payments and complex care add-on payments with current practices, 2) require the annual renewal of the complex care add-on rate and submission of the associated documentation, and 3) eliminate the qualifying loss review requirement. There is no anticipated cost to providers since the proposed rule does not change the current reimbursement methodology; nor is there an anticipated fiscal impact to the Medicaid Program since the proposed rule is only being promulgated to ensure that the Rule provisions align with current operational practices and does not change the current budgeted amounts for ICF/IID services. This proposed rule may be beneficial to ICFs/IID in FY 17-18, FY 18-19 and FY 19-20 by aligning the reimbursement provisions with current practices and removing qualifying loss review requirements which are not currently in use.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1805#043

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Internal Control; Slots (LAC 42:III.2723)

The Department of Public Safety and Corrections, Gaming Control Board, in accordance with R.S. 27:15 and 24 and with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice that it intends to amend LAC 42:III.2723, Internal Controls; Slots. The proposed amendment increases the minimum payout jackpot threshold triggering the licensee or casino operator having to perform certain duties such as verifying seals and photographing the internal functions of the slot machines.

**Title 42**

**LOUISIANA GAMING**

**Part III. Gaming Control Board**

**Chapter 27. Accounting Regulations**

**§2723. Internal Controls; Slots**

A. - D.1.i. ...

j. verification and witness by an additional permitted gaming employee if the jackpot is less than \$1,200. This signature is not required if the jackpot is paid in accordance with §2723.C.9. If the jackpot is \$1,200 or greater, the additional permitted gaming employee shall be an employee from a department independent of the department performing the payout.

D.2. - E.4. ...

F. If the jackpot is \$10,000 or more, in addition to Subsections D and E of this Section, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager. The requirements of this Subsection shall be met prior to the device being returned to operation.

G. If the jackpot is greater than \$50,000, in addition to Subsections D, E, and F of this Section, the slot attendant shall notify a slot technician who shall verify that division seals protecting the program storage media are intact. If the division seals are broken, the program storage media shall be tested to ensure compliance with these regulations. A photograph of the division seal covering the program storage media shall be taken or the test shall be completed before the jackpot is paid. The photograph may be in digital form and shall be timestamped. The photograph, or a copy of it, shall be attached to the jackpot payout form. Digital versions of the photograph shall be maintained for the same duration as the printed photograph. Surveillance shall record the process of certifying the division seals, any required testing, and the payment to the patron. The requirements of this Subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$500,000 or more, in addition to Subsections D, E, F, and G of this Section, the licensee or casino operator shall immediately call for a division agent. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. With the exception of surveillance monitoring the game and the processing of the jackpot slip, W-2G, and DCFS jackpot intercept search, no action shall be taken until a division

agent is present. A slot technician shall verify that division seals protecting the program storage media are intact. The slot technician shall inspect and test the program storage media in a manner prescribed by the division. Surveillance shall monitor the entire process of inspecting and testing. The payout form shall be signed by a designated licensee or casino operator representative as specified in the internal controls. The device shall not be placed back into service until all requirements of this Subsection are met.

I. - S.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1641 (July 2012), amended LR 44:

#### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:972, the Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2405.

It is accordingly concluded that amending LAC 42:XI.2405 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2405.

It is accordingly concluded that amending LAC 42:XI.2405 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

Pursuant to the provisions of R.S. 49:965.6, the Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:XI.2405 is amended as the change will not apply to small businesses.

#### **Provider Impact Statement**

Pursuant to the provisions of HCR170 of 2014, the Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:XI.2405.

It is accordingly concluded that amending LAC 42:XI.2405 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Earl G. Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802. All comments must be submitted no later than June 11, 2018.

Ronnie Jones  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Internal Control; Slots**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in any cost or savings to state or local governmental units. The proposed rule changes increases the minimum payout jackpot threshold triggering the licensee or casino operator having to perform certain duties such as verifying seals and photographing the internal functions of the slot machines.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no material effect on costs or economic benefits to directly affected persons or non-governmental units. The proposed rule may result in a nominal workload decrease by requiring certain duties at higher jackpot levels than under existing rule.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1805#048

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Gaming Control Board**

Video Draw Poker—Application and License  
(LAC 42:XI.2405)

The Department of Public Safety and Corrections, Gaming Control Board, in accordance with R.S. 27:15 and 24 and with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice that it intends to amend LAC 42:XI.2405, Application and License. The proposed amendment will allow qualified truck stop facilities to



receive an initial 90-day waiver of the fuel sale requirements in the event of a force majeure event per the requirements of the rule instead of an initial 60-day waiver.

#### **Title 42**

### **LOUISIANA GAMING**

#### **Part XI. Video Poker**

#### **Chapter 24. Video Draw Poker**

#### **§2405. Application and License**

A.1. - B.11.a.vi. ...

b. Truck Stop Facilities Only—Fuel Facility Operational—Waiver of Surrender Requirement

i. A licensed truck stop facility may be granted a 90-day waiver from the surrender provisions of Subparagraph B.11.a of this Section following a force majeure event which has not affected the operation of the fuel facility, but has resulted in the inability of the licensee to maintain and operate the on-site restaurant, the stable parking area, the onsite repair service, or any of its required amenities, provided that the licensee notifies the division in writing of the damage to the licensed establishment in accordance with the notification requirement in Paragraph B.11 of this Section and the division determines, following an on-site inspection of the licensed establishment, that the damage was in fact the result of a force majeure event.

ii. The division may grant one 60-day extension if it determines that the licensee has made substantial progress towards completing the necessary repairs within the original 90-day waiver period and the licensee can demonstrate a reasonable likelihood of completing the necessary repairs within the next 60 days.

iii. ...

iv. Under no circumstances shall a licensee continue video poker operations after the expiration of the 90-day waiver or any extension thereof granted by the division without completing the necessary repairs and resuming normal operations. If the licensee has not completed necessary repairs and resumed normal operations, it shall immediately surrender the license upon the expiration of the 90-day waiver or any extension granted by the division.

B.11.b.v. - D.7. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 27:15 and 24.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:490 (March 2009), amended LR 36:2045 (September 2010), LR 38:2935 (November 2012), LR 40:1105, 1109 (June 2014), repromulgated LR 40:1382 (July 2014), amended LR 40:1384 (July 2014), LR 41:1498 (August 2015), LR 42:574 (April 2016), LR 44:

#### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:972, the Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2405.

It is accordingly concluded that amending LAC 42:XI.2405 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2405.

It is accordingly concluded that amending LAC 42:XI.2405 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

Pursuant to the provisions of R.S. 49:965.6 the Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:XI.2405 is amended as the change will not apply to small businesses.

#### **Provider Impact Statement**

Pursuant to the provisions of HCR170 of 2014, the Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:XI.2405.

It is accordingly concluded that amending LAC 42:XI.2405 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Earl G. Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802. All comments must be submitted no later than June 11, 2018.

Ronnie Jones  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Video Draw Poker  
Application and License**

**Title 42  
LOUISIANA GAMING  
Part XI. Video Poker**

**Chapter 24. Video Draw Poker  
§2415. Gaming Establishments**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule change will allow qualified truck stop facilities to receive an initial 90-day waiver of the fuel sale requirements in the event of a force majeure event per the requirements of the rule instead of an initial 60-day waiver.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule change will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental units. The proposed rule change will provide 30 extra days for qualified truck stop licensees to repair their truck stop facilities following a force majeure event without having to surrender their video gaming license.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule changes will have no effect on competition or employment.

Ronnie Jones  
Chairman  
1805#047

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

**Video Gaming Establishments—Security  
(LAC 42:XI.2415)**

The Department of Public Safety and Corrections, Gaming Control Board, in accordance with R.S. 27:15 and 24 and with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice that it intends to amend LAC 42:XI.2415, Gaming Establishments. The proposed amendment changes the title of “security guard” to “security officer” to be in conformity with security officer laws, specifically R.S. 37:3272(18). The proposed amendment expands the requirements of video surveillance security to licensed type IV video gaming establishments and to all type V video gaming establishments, not just those with more than 20 video gaming devices. The proposed amendment restricts those employed as security officers in the affected gaming establishments from performing other job functions during their shift as a security guard.

- A. - A.1.e. ...
- B. Security
1. Licensed and insured uniformed security officers, as defined in R.S. 37:3272(18), or off duty uniformed P.O.S.T. (Peace Officers Standards and Training) certified law enforcement officers shall be required in all type IV and type V establishments with more than 20 devices. Security officers, other than off duty P.O.S.T. certified law enforcement officers, shall possess a security officer identification card issued by the Louisiana State Board of Private Security Examiners at all times while on duty at the licensed establishment. In addition:
- a. a sufficient number of security personnel shall be provided for the safe operation of the establishment; and
- b. if the division determines that an unsafe situation exists, the division shall have the authority to mandate that a licensee provide additional security measures.
2. All type IV and V establishments shall provide video security surveillance, approved by the division, for the continuous monitoring and recording of all gaming and cage/cashier activities. Surveillance recordings shall be maintained for a period of not less than 14 days.
3. Individuals working as security personnel at a licensed establishment shall not perform tasks or functions outside of the course and scope of duty as a security officer or that are not directly related to security of the licensed establishment during a shift.
- C. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with L.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 26:1321 (June 2000), LR 36:2047 (September 2010), LR 39:329 (February 2013), LR 40:1106, 1110 (June 2014), repromulgated LR 40:1383 (July 2014), amended LR 40:1386 (July 2014), amended LR 44:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:972, the Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2415. It is accordingly concluded that amending LAC 42:XI.2415 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2415. It is accordingly concluded that amending LAC 42:XI.2415 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Analysis**

Pursuant to the provisions of R.S. 49:965.6, the Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:XI.2415 is amended as the change will not apply to small businesses.

**Provider Impact Statement**

Pursuant to the provisions of HCR 170 of 2014, the Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:XI.2415. It is accordingly concluded that amending LAC 42:XI.2415 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Earl G. Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802. All comments must be submitted no later than June 11, 2018.

Ronnie Jones  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Video Gaming Establishments—Security**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will not result in any cost or savings to state or local governmental units. The proposed rule change amends the title of “security guard” to “security officer” to be in conformity with security officer laws, specifically R.S. 37:3272(18); expands the requirements of video surveillance security to licensed type IV video gaming establishments and to all type V video gaming establishments, not just those with more than twenty (20) video gaming devices; and restricts those employed as security officers in the affected gaming establishments from performing other job functions during their shift as a security guard.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change may increase costs for licensed type IV and type V video gaming establishments. The proposed rule change expands the requirement of video surveillance security to licensed type IV video gaming establishments and to all Type V video gaming establishments, not just those with more than twenty (20) video gaming devices. Additionally, the proposed rule change adds a requirement for the recording of video surveillance and the storage of surveillance recordings for a minimum of fourteen (14) days. For those licensed type IV and type V video gaming establishments that do not currently have the video surveillance security systems required by the proposed rule, the purchase of additional equipment would be required.

The proposed rule change will restrict establishments from using security officers for non-security related job functions.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1805#049

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Committee Reports

## COMMITTEE REPORT

### House of Representatives

#### Committee on Natural Resources and Environment

Report of the House Committee on Natural Resources and Environment on on Notice of Intent Proposed by Department of Wildlife and Fisheries

May 2, 2018

Editor's Note: The Notice of Intent referenced below may be viewed on pages 1688-1691 of the August 20, 2017 edition of the *Louisiana Register*.

In accordance with the powers conferred in the Administrative Procedure Act by R.S. 49:953(B), the House Committee on Natural Resources and Environment met on Tuesday, May 8, 2018, to exercise oversight authority on the attached Summary Report for the Notice of Intent to approve a rule submitted by the Louisiana Department of Wildlife and Fisheries. The Notice of Intent provides for the approval

of adding Sterlet Sturgeon to the list of approved aquatic organisms. After a thorough hearing on the matter, including a presentation by the department and public testimony, the committee, by a vote of 12-4, found the rule "unacceptable" as provided in R.S. 49:968(D)(3).

The committee found that the proposed rule was not in conformity to all applicable provisions of law and of the constitution, that it is inadvisable and lacking in merit, and is unacceptable. The committee further found that the proposed rule could potentially cause harm to the natural resources of the state which under the provisions of Article IX of the Constitution of Louisiana are to ". . . be protected, conserved, and replenished insofar as possible . . .".

By transmittal of this written report of committee action and pursuant to R.S. 49:968(F) the committee is notifying the Governor, the Wildlife and Fisheries Commission and the Louisiana State Register of the committee's action.

Stuart J. Bishop, Chairman  
State Representative

1805#012

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Office of Forestry

#### Adopted Severance Tax Values for 2018

In accordance with LAC 7:XXXIX.105, the Louisiana Department of Agriculture and Forestry, Office of Forestry, hereby publishes the current average stumpage market value of trees, timber and pulpwood for 2018.

Product	Value Per Ton	Tax Rate	Tax Per Ton (2018)
Pine Sawtimber	\$32.16	2.25%	\$0.72
Hardwood Sawtimber	\$37.05	2.25%	\$0.83
Pine Chip-n-Saw	\$16.88	2.25%	\$0.38
Pine Pulpwood	\$9.28	5.00%	\$0.46
Hardwood Pulpwood	\$8.13	5.00%	\$0.41

Mike Strain, DVM  
Commissioner

1805#017

## POTPOURRI

### Office of the Governor Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill—Louisiana Trustee Implementation Group Draft Supplemental Restoration Plan and Environmental Assessment—Elmer’s Island Access Project Modification

#### Action:

Notice of Availability of Draft Supplemental Restoration Plan/Environmental Assessment

#### Summary:

On December 20, 2017, the Coastal Protection and Restoration Authority (CPRA) published a Notice of Availability of the *Deepwater Horizon* Oil Spill Louisiana Trustee Implementation Group (Louisiana TIG) Draft Restoration Plan and Environmental Assessment #2: Provide and Enhance Recreational Opportunities (Draft RP/EA #2) and requested comments from the public. In response to the public comments received on the Elmer’s Island Access project proposed in the Draft RP/EA #2, the Louisiana TIG is proposing a modification to the original Elmer’s Island Access project feature. In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State natural resource trustee agencies for the Louisiana TIG prepared a Draft Supplemental Restoration Plan and Environmental Assessment for the Elmer’s Island Access Project Modification (Draft Supplemental RP/EA). The Draft Supplemental RP/EA evaluates the proposed change to the Elmer’s Island Access project and alternatives considered by the Louisiana TIG under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations, and

evaluates their environmental effects in accordance with NEPA. The proposed modification to the Elmer’s Island Access project is consistent with the restoration alternatives selected in the *Deepwater Horizon* oil spill Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). The purpose of this notice is to inform the public of the availability of the Draft Supplemental RP/EA and to seek public comments on the document.

#### Dates:

The Louisiana TIG will consider public comments received on or before June 20, 2018.

**Public Meeting:** The Louisiana TIG will also take verbal comments at a public meeting that will be held at the Tulane River and Coastal Center on May 22, 2018; Open House 5:30 p.m., Meeting 6:00 p.m.; 1370 Port of New Orleans Place, New Orleans, LA 70130.

#### Addresses:

**Obtaining the Document:** You can download the Draft Supplemental RP/EA at <http://la-dwh.com/>. Alternatively, you may request a CD of the Draft RP/EA (see For Further Information Contact). You will also be able to review copies of the document at the public repositories listed at <http://la-dwh.com/>.

**Submission of Comments:** You may submit comments on the Draft Supplemental RP/EA by one of the following methods:

a. Via the web: <http://www.la-dwh.com> or <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>.

b. Via U.S. Mail: U.S. Fish & Wildlife Service, P.O. Box 49567, Atlanta, GA 30345.

c. In Person: Verbal comments may be provided at the public meeting on May 22, 2018.

Once submitted, comments cannot be edited or withdrawn. The Louisiana TIG may publish any comment received on the document. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The Louisiana TIG will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). Please be aware that your entire comment, including your personal identifying information, will become part of the public record. Please note that mailed comments must be postmarked on or before the comment deadline of 30 days following publication of this notice to be considered.

#### For Further Information Contact:

Joann Hicks, 225-342-5477

#### Supplementary Information:

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the

Macondo prospect (Mississippi Canyon 252 – MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The *Deepwater Horizon* state and Federal natural resource trustees (Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and state agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of the NRDA, the Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in Louisiana are now chosen and managed by the Louisiana TIG, which is composed of the following Trustees:

- DOI, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- NOAA, on behalf of the U.S. Department of Commerce;

- USDA;
- EPA;
- CPRA;
- LDNR;
- LDEQ;
- LOSCO; and
- LDWF.

#### **Background:**

In the December 2017 Draft RP/EA #2, the Louisiana TIG presented to the public its plan for providing partial compensation for recreational use services lost as a result of the *Deepwater Horizon* oil spill. The public comment period for the Draft RP/EA #2 began on December 20, 2017, and closed on February 2, 2018. The Louisiana TIG hosted a public meeting on January 24, 2018, in New Orleans. The Draft RP/EA #2 proposed four restoration projects, evaluated in accordance with OPA and NEPA, including the Elmer's Island Access project. As proposed, the Elmer's Island Access project would enhance recreational opportunities within the Elmer's Island Refuge by incorporating a suite of features to improve upon existing access points, enhance the natural features of the area through reconnected hydrology, and develop a solution for improved access for recreational fishing activities targeting the eastern portion of Elmer's Island adjacent to Caminada Pass. In response to the public comments received on the Elmer's Island Access project proposed in the Draft Supplemental RP/EA, the Louisiana TIG is proposing a modification to the original project feature. This modification would eliminate the proposed boardwalk and associated small boat launch and parking area at Elmer's Island, and provide a beach shuttle service that would allow improved public access to Caminada Pass, the most popular location for recreational fishing on Elmer's Island. The Louisiana TIG has prepared the Draft Supplemental RP/EA to inform the public about the proposed modification to the Elmer's Island Access project and to seek public comment.

#### **Next Steps:**

The public is encouraged to review and comment on the Draft Supplemental RP/EA. A public meeting is scheduled to also help facilitate the public review and comment process. Comments provided on the Draft Supplemental RP/EA will be considered along with comments previously received on the Draft RP/EA #2. A summary of comments received on the Draft Supplemental RP/EA and the Draft RP/EA #2 and the Louisiana TIG's responses, where applicable, will be included in the Final Restoration Plan/Environmental Assessment #2: Provide and Enhance Recreational Opportunities (Final RP/EA #2). Public comments on the Draft Supplemental RP/EA will inform the Louisiana TIG's decision on whether to select the Elmer's Island Access project, as modified, in the Final RP/EA #2.

#### **Administrative Record:**

When they are completed, the documents comprising the Administrative Record will be available electronically at the following locations:

- <http://www.doi.gov/deepwaterhorizon>; or
- <http://la-dwh.com/AdminRecord.aspx>.

#### **Authority:**

The authorities for this action are the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) the implementing

Natural Resource Damage Assessment regulations found at 15 CFR 990, the Louisiana Oil Spill Prevention and Response Act (R.S. 30:2451 et seq.), and the implementing Natural Resource Damage Assessment Regulations found at La. Admin. Code 43:101 et seq.

Michael Ellis  
Executive Director

1805#041

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

**Orphaned Oilfield Sites**

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Aminex USA, Inc.	Shoats Creek	L	Lutcher-Moore LBRCo	001	59517
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; A C Chappuis	002	61181
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; Lut-Moore LBRCo	003	66033
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; J Dolby	005	66930
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; Lut-Moore LBRCo	004	67394
Aminex USA, Inc.	Shoats Creek	L	Sc su; J Dolby	005-D	67707
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; Lut-Moore LBRCo	006	68187
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; Lut-Moore LBR Co	007	72323
Aminex USA, Inc.	Shoats Creek	L	SC su; Lutcher-Moore LBRCo	003-D	73257
Aminex USA, Inc.	Shoats Creek	L	SC su; Lutcher-Moore LBR Co	007-D	73287
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; Lut-Moore LBR Co	009	73382
Aminex USA, Inc.	Shoats Creek	L	SC su; A C Chappuis	002-D	78932
Aminex USA, Inc.	Shoats Creek	L	Lutcher-Moore LBR Co	013	168693
Aminex USA, Inc.	Shoats Creek	L	Lutcher-Moore LBR Co	014	171482
Aminex USA, Inc.	Shoats Creek	L	SC su; A C Chappuis	003	171627
Aminex USA, Inc.	Shoats Creek	L	Shoats Creek swd	002	173432

Operator	Field	District	Well Name	Well Number	Serial Number
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; Robert E Cain	001	174416
Aminex USA, Inc.	Shoats Creek	L	8670 ra su; Robert E Cain	002	177742
Aminex USA, Inc.	Shoats Creek	L	Lutcher-Moore LBR Co	018	182579
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; Lutcher-Moore	019	209723
Aminex USA, Inc.	Shoats Creek	L	SC CF 5 ra su; Olympia Minerals	001	240630
Aminex USA, Inc.	Shoats Creek	L	Lutcher-Moore LBR Co	020	249065
Gravel & Toegel-Deck Oil Company	Wildcat-No La Monroe Dist	M	Fisher LBR Corp	001	155816
J. R. Frankel	Lake Fields	L	State Lease 2926	001	94518
Kanpetro, Inc.	Red River-Bull Bayou	S	Mcmullen	001	182794
N. B. Badgett	Red River-Bull Bayou	S	W D Saunders	002	36387
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18423	003	151097
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18423	001	231746
Northstar Offshore Group, LLC	Creole Offshore	L	vua;SL 18519	001	232725
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18423	001-D	232797
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	001	233855
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18423	002	234959
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	001-D	235106
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18423	002-D	236075
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	002	237827
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Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	002-D	239090
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	004	242708
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	005	242709
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	005-D	243814
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	008	244198
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	003-D	244585
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	008-D	245227

Operator	Field	District	Well Name	Well Number	Serial Number
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18423	004	245974
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 19190	001	246609
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	010	246776
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	011	246981
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18524	001	247110
Northstar Offshore Group, LLC	Creole Offshore	L	vub;SL 18521	012	247159

Operator	Field	District	Well Name	Well Number	Serial Number
Northstar Offshore Group, LLC	Ocean View Beach	L	Ivan U Fisk Sr swd	001	972565
Northstar Offshore Group, LLC	Creole Offshore	L	Troy Bailey swd	001	973555
Northstar Offshore Group, LLC	Creole Offshore	L	Wilma A Picou swd	001	974150
Schlicher Production Company	Pine Prairie	L	J A Perkins	001	20518
Unknown	Caddo Pine Island	S	Helpman Heirs	037	990485

Richard P. Ieyoub  
Commissioner

1805#040



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